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BENJAMIN A. ROGGE

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• • •

LEWY'S "THE CATHOLIC CHURCH AND NAZI GERMANY"
STEPHEN J. TONSOR

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Financing Higher Education
3 BENJAMIN A. ROGGE

Trends in the U. S. Supreme Court
15 PHILIP B. KURLAND

How Soviet Planning Works
20 G. WARREN NUTTER

Collectivism in Social Theory
26 EDWIN HARWOOD

Justice, "Needs," and Charity
32 ROBERT L. CUNNINGHAM

COMMUNICATION:

The 1964 Election
39 WILLIAM A. RUSHER
BENJAMIN A. ROGGE

REVIEWS:

The View from London Bridge
42 STEPHEN J. TONSOR

Van den Haag's "Passion and Social Constraint"
47 RICHARD McCONCHIE

New Books and Articles
49

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NEW
INDIVIDUALIST
REVIEW

A JOURNAL OF
CLASSICAL LIBERAL THOUGHT

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Complaints of the loss of individuality and the lessening of respect for the person and his rights have become a commonplace of our time; they nonetheless point to a cause for genuine concern. NEW INDIVIDUALIST REVIEW, an independent journal associated with no organization or political party, believes that in the realm of politics and economics the most valuable system guaranteeing proper respect for individuality is that which, historically, has gone by the name of classical liberalism; the elements of this system are private property, civil liberties, the rule of law, and, in general, the strictest limits placed on the power of government. It is the purpose of the Review to stimulate and encourage explorations of important problems from a viewpoint characterized by thoughtful concern with individual liberty.

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Financing Higher Education in the United States

BENJAMIN A. ROGGE

THE PURPOSE OF THIS study is to explore certain current and expected problems in the financing of higher education in the United States. In particular, it will be directed to an evaluation of one method of solving these problems: the method of full-cost pricing of the services of higher education.[1]

The central thesis of the study is that full-cost pricing has much to recommend it, both as a solution to the pressing financial problems of higher education and as a solution to other serious problems flowing from below-cost pricing. It is argued that the traditional reasons advanced to support the need for subsidy to higher education, even if accepted, do not demand below-cost pricing as the method of subsidy. A secondary thesis is that the case for subsidy has itself been both exaggerated and distorted and requires careful reexamination.

No time need be spent here establishing the fact that the colleges and universities of this country, both public and private, do indeed face a serious financial problem. This is one of the best publicized facts in the United States today. In sum, the story is that of an industry which confronts a financial crisis because of a fast-rising demand for its services.

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This statement of the problem is used deliberately to throw in sharp relief the unique character of the industry. It is one in which the service is sold for much less than its cost of production.[2] It is this and this only which makes an increase in demand a matter of deep concern rather than a reason for optimism. An increase in the size of a student body usually means a larger deficit —a deficit that must be financed through public and/or private subsidy.

To most students of the problem, including most college and university presidents, the problem is simply one of raising more money to meet the larger deficits. To only a few does it seem to be reason for a careful and thorough reexamination of the nature and purposes of higher education and of the financial arrangements most likely to promote those purposes. It is the thesis

[1] The findings may or may not be relevant to elementary and secondary education. At the very least, this relevance would have to be established by a study specifically directed to those two stages in the education process. In this regard, the reader's attention is called to an article in the *New Individualist Review*, Vol. III, Number 1, Summer 1963, by Robert L. Cunningham, "Education: Free and Public," in which he discusses a system of publicly financed but privately managed elementary and secondary educational institutions.

[2] A study of various collections of data reveals that the revenues from tuition charges cover from 15 per cent to 25 per cent of the costs at publicly-controlled institutions and from 45 per cent to 55 per cent of the costs at privately-controlled institutions.

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of this study that such a reexamination is badly needed. In particular, to view the problem as simply a desperate need for expanded subsidy to higher education is to ignore the many problems that are associated with below-cost pricing — problems that will not be solved even if the expanded subsidy is secured.

This study is designed to concentrate attention on how educational services are *priced,* not on how the buyers of those services secure the funds to pay the prices asked. That is, full-cost pricing does not rule out private and/or public subsidies to individual students. There are really two questions here: One is how the service should be priced, and the other is who should ultimately bear the cost of the service. Both will be examined, but the first will receive the more careful study.

TO SUBJECT HIGHER education to economic analysis may seem to be laying profane hands on a sacred symbol Such is the mystique of this "industry" that it must not be appraised with the vulgar calculus of the market place.

Yet, "the vulgar calculus of the market place" still remains as the most humane method man has yet devised to solve those problems of allocation and division which are ubiquitous and permanent in human society. This we have accepted as a people by our continued commitment to the free market form of economic organization. We profess our faith in this form of economic organization for the economy at large, but deny that it is suited to the purposes of higher education. Free market pricing is deemed appropriate for most goods and services, but is rejected in pricing the services of higher education. The reasons advanced to support this position will be examined, but attention will be directed first to certain effects of this policy on the educational system itself. The question to be examined can be phrased in this way: How does below-cost pricing affect the college and university system of this country?

The impact of below-cost pricing on higher education will be examined in four parts: problems of finance, problems of rationing, problems of motivation, and problems of educational efficiency.

To most observers the *only* problem presented by below-cost pricing is the financial problem—the deficits that must be underwritten by the taxpayer or the private donor. Admittedly the financial problem is a serious one. This fact is clearly evidenced in the increasing tendency for college and university presidents (even of tax-supported institutions) to be fund-raisers first and educational leaders and scholars second.

The college or university president must of necessity be a professional begger and the pressure of performing in this role is undoubtedly one of the factors leading to the rapid turnover of presidents in American colleges and universities.

The financial problem presented by below-cost pricing *is* a serious one and is rapidly becoming a problem of fantastic proportions. Given the fact of below-cost pricing, there seems to be no solution to this problem that does not involve a significant increase in the burden of the taxpayer. Nor does it seem likely that it will be solved without increasing reliance on funds supplied by the Federal government.

THE FINANCIAL PROBLEM, however, is not the only problem presented by below-cost pricing, nor is it even necessarily the most serious. At least as serious is the rationing problem which comes from selling educational services at well below the price which would clear the market.

The price of a good or service in a free market is not only a source of funds to cover the costs of the good or service. It is also the instrument which answers the question of to whom the available supply is to go. That is, the price *rations* the total number of units available among those who wish to buy the product. It does this on the principle that the product is to go to those who are willing to give up the most *i.e.*, pay the highest price) to obtain it.

The acceptability of this principle need not be debated here. It is important only to note that it is a device for rationing.

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Moreover, it is a device that clears the market and that operates without any need for the seller to choose among buyers on some personal basis.

To set a price below the market price is to create an excess of quantity demanded over quantity supplied, whether the product be sirloin steak, rental housing, or education. This, in turn, requires of the seller that he find some way to determine whose requests for the product are to be granted and whose denied.

The problem of rationing the available educational services is fast becoming one of the major problems of higher education. This has brought into sharp relief the issue of the rationing principle to be used. The generally accepted principle is that educational opportunities are to go to those possessed of the greatest potential for intellectual activity; but closer examination reveals that this principle can be questioned on both practical and theoretical grounds.

If the principle is accepted, the first task is to *measure* potential for success in college. No one who has served on the admissions committee of a college or university would argue that this is a simple task. On the contrary, it is one of the most difficult tasks of college administration. Techniques for measuring potential are being improved each year, but mistakes are still made and will continue to be made under the best of measurement programs.

Somewhat less difficult, but no less trying, is the task of determining which students are to be permitted to continue in school, once admitted, and which are to be denied further access to the services of higher education.

The rationing technique under discussion here—whether applied in the selection of students for admission or in the selection of those to continue—operates in such a way that it often appears to the rejected student as a personally discriminatory technique. The rationing system of the free market at least has the advantage of operating as does the system of justice represented by the blindfolded goddess holding the scales. It does not ask "Who are you?" or "What kind of a person are you?" or "Did your mother or father attend this college?" but only "Are you willing to pay the price?" Cruel as this may sometimes seem in practice, it would appear on balance to be less cruel and less humiliating than the personalized techniques of nonmarket rationing.

YET EVEN IF POTENTIAL for intellectual growth and general success in college could be measured with complete accuracy and in such a way as to leave no room for personally discriminatory decisions, there would still exist serious questions of the appropriateness of this principle. It seems to rest on the assumption that large jars should be filled with the purest wine, while smaller jars should receive nothing but such rainwater as they can catch from the skies. If education is opportunity for personal growth, are we to deny it in some arbitrary way to those unfortunate enough to start from a lower level or to possess less absolute capacity for growth? Is 30 per cent growth for the bright student more to be preferred than 30 per cent growth for the less able student?

Is it not possible that the brighter student is more capable of educating himself than the weaker student; that in fact it might *not* be nonsense to say to the quick-minded student, "Go educate yourself," and to the less-gifted student, "Come, we will try to help you"? As a matter of fact, current practice on United States campuses is moving toward independent study programs for the gifted students — a back-handed recognition of the fact that to such students the traditional apparatus of the college may not be important. This is not to argue that admission should be limited to the *bad* student, but only to indicate that the principle that admission should be limited to the *good* student can be questioned.

Suppose this same principle of making educational opportunities available only to those with high potential to benefit from these opportunities were applied to other goods and services. The sale of opera tickets would then be restricted to those who could establish ability to enjoy opera, wine would be sold only to the recognized connoisseur, and most

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wives would be denied the privilege of attending baseball games with their husbands.

For almost all other goods and services we assume that the individual is the best judge of whether or not he is receiving his money's worth. Only in education do we give to the seller the power to make this decision for the buyer.

It might be answered that this is made necessary by the fact that college students are too immature to make this decision for themselves. This answer ignores the fact that the family of the college student participates in this decision and that we permit this same family to make most other decisions for the children in the family. Why is the family less able to make decisions about education than about medical care or clothing or housing for the members of the family?

In sum, the rationing principle in current use in higher education in the United States today is questionable in both philosophy and in practice.[3] Yet below-cost pricing makes some such arbitrary and capricious method of rationing a necessity.

UNDER THE PRICE SYSTEM, a unit of any given product goes to the one who is willing to give up the most to get it. This is a rationing principle which tends in part to be a measure of strength of motivation. It tends to weed out those who have no great interest in the product. The effect of far-below-cost pricing in higher education is to admit many who have no strong desire to be educated — thus the curious situation in which professors and deans must be constantly belaboring students to take that which they are supposed to desire. We are in the position of a grocer who must keep close watch on his customers to see that they do not pay for the merchandise and then try to get out of the store without it.

Moreover, the effect on the motivation of teachers is equally significant. To the extent that their incomes derive from sources other than student fees, they are freed from some part of the necessity of really attending to the interests and wishes of their students. It is curious how irritated teachers become at any suggestion that their product be evaluated by their customers. They seem to really desire that each teacher be judge in his own cause or, at worst, that he be judged by his colleagues (who, of course, should not be so vulgar as to consult student opinion on his work as a teacher).

A number of the points under discussion here are well made in Adam Smith's *The Wealth of Nations*. Smith comments at length on the effect of divorcing teachers' income from student fees as follows:

> In other universities, the teacher is prohibited from receiving any honorary or fee from his pupils, and his salary constitutes the whole of the revenue which he derives from his office. His interest is, in this case, set as directly in opposition to his duty as it is possible to set it. It is the interest of every man to live as much at his ease as he can; and if his emoluments are to be precisely the same, whether he does or does not perform some very laborious duty, it is certainly his interest, at least as interest is vulgarly understood, either to neglect it altogether, or, if he is subject to some authority which will not suffer him to do this, to perform it in as careless and slovenly a manner as that authority will permit. If he is naturally active and a lover of labour, it is his interest to employ that activity in any way from which he can derive some advantage, rather than in the performance of his duty, from which he can derive none.
>
> If the authority to which he is subject resides in the body corporate, the college, or university, of which he himself is a member, and in which the greater part of the other members are, like himself, persons who either are, or ought to be teachers, they are likely to make a common cause, to be all very indulgent to one another, and every man to consent that his neighbour may neglect his duty, provided he himself

[3] College faculties usually give enthusiastic endorsement to this rationing principle. Could this be because they find it easier and more pleasant to interest the already interested, to seem to produce growth in those destined to grow anyway? This in an understandable feeling, but it seems something less than sufficient as a justification for the principle.

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is allowed to neglect his own. In the university of Oxford, the greater part of the public professors have, for these many years, given up altogether even the pretence of teaching.[4]

He then comments on the effect of loss of student control in the choice of teachers:

If in each college, the tutor or teacher, who was to instruct each student in all arts and sciences, should not be voluntarily chosen by the student, but appointed by the head of the college; and if, in case of neglect, inability, or bad usage, the student should not be allowed to change him for another, without leave first asked and obtained; such a regulation would not only tend very much to extinguish all emulation among the different tutors of the same college, but to diminish very much, in all of them, the necessity of diligence and of attention to their respective pupils. Such teachers, though very well paid by their students, might be as much disposed to neglect them, as those who are not paid by them at all or who have no other recompense but their salary.

If the teacher happens to be a man of sense, it must be an unpleasant thing to him to be conscious, while he is lecturing to his students, that he is either speaking or reading nonsense, or what is very little better than nonsense. It must, too, be unpleasant to him to observe, that the greater part of his students desert his lectures; or perhaps, attend upon them with plain enough marks of neglect, contempt, and derision. If he is obliged, therefore, to give a certain number of lectures, those motives alone, without any other interest, might dispose him to take some pains to give tolerably good ones. Several different expedients, however, may be fallen upon, which will effectually blunt the edge of all those incitements to diligence. The teacher, instead of explaining to his pupils himself the science in which he proposes to instruct them, may read some book upon it; and if this book is written in a foreign and dead language, by interpreting it to them into their own, or, what would give him still less trouble, by making them interpret it to him, and by now and then making an occasional remark upon it, he may flatter himself that he is giving a lecture. The slightest degree of knowledge and application will enable him to do this, without exposing himself to contempt or derision, by saying any thing that is really foolish, absurd, or ridiculous. The discipline of the college, at the same time, may enable him to force all his pupils to the most regular attendance upon his sham lecture, and to maintain the most decent and respectful behavior during the whole time of the performance.

The discipline of colleges and universities is in general contrived, not for the benefit of the students, but for the interest, or, more properly speaking, for the ease of the masters. Its object is, in all cases, to maintain the authority of the master, and whether he neglects or performs his duty, to oblige the students in all cases to behave to him as if he performed it with the greatest diligence and ability. It seems to presume perfect wisdom and virtue in the one order, and the greatest weakness and folly in the other. Where the masters, however, really perform their duty, there are no examples, I believe, that the greater part of the students ever neglect theirs. No discipline is ever requisite to force attendance upon lectures which are really worth the attending, as is well known wherever any such lectures are given.[5]

In sum, then, while the student may find it pleasant to have his education subsidized, the price he pays for this is loss of control over his education. He who pays the piper will call the tune, and if the student is not the one who pays the piper, he cannot call the tune. Moreover, the divorce of teacher income from student fees has a tendency to encourage inefficient and ineffective teaching and to encourage teachers to treat their teaching duties as a necessary evil to be disposed of as quickly as possible to permit them time for more important activities. An exaggeration? Perhaps, but who can say that he has never seen such tendencies at work?

The small, private colleges have the reputation of providing the best quality of teaching in higher education. Why is this? It is difficult to believe that it has no connection at all with the fact that such institutions derive 50 per cent

[4] Adam Smith, *The Wealth of Nations* (Modern Library Edition), pp. 717-18.

[5] *Ibid.*, pp. 719-20.

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or more of their revenues from student fees. Thus, the quality of the teaching has an important effect on the revenues of the college and the administration is forced to encourage and demand of its faculty a high quality of teaching service.

The effect, then, of below-cost pricing is to make of our colleges a collection of students, many of whom have no real desire to make use of the opportunity, and a collection of teachers who are under no real necessity to provide a high quality of teaching services.

THE PROBLEMS OF educational efficiency are usually discussed under the heading Problems of Academic Freedom; but "academic freedom" is really a misnomer. It should not be confused with freedom in the sense of those rights which are guaranteed to Americans in the Bill of Rights. It is altogether fitting and proper that a person should be free to worship as he pleases (or not to worship at all), to think as he pleases, to speak and write as he pleases *without fear of reprisal by government.* In fact, these rights are the very cornerstone of any free society and they are literally worth dying for; but to say that Paul Robeson should be free to sing the Internationale is a far different thing from saying that we must pay him for singing it. We may believe that Gus Hall should be free to publish books advocating communism, but we are not violating his freedom when we refuse to buy them. Now perhaps we are missing a chance to become better educated by refusing to buy them and that brings us to the point here. So-called academic freedom is really a question of educational efficiency, of the improved understanding which comes from being exposed to a variety of points of view.

No teacher has an inherent right to present a point of view and to be paid for presenting it. If his customers wish not to pay to hear his point of view, this may be unwise on their part; but it is not a violation of any inherent freedom. In fact, to force them, say, through the taxing power of the government to pay a teacher to present a point of view which they do not wish presented is a violation of an important freedom—the freedom of each man to spend his money as he pleases. Consider, for example, the injustice that would be done if the trustees of a college which demands acceptance of the Apostle's Creed as a condition of employment were to be forced to hire or to continue to employ an acknowledged atheist in the interest of academic freedom, or if a Quaker college were forced to hire General Mark Clark as its president.

Insisting that what is called academic freedom does not really involve freedom, however, it not to minimize its importance. On the contrary, even though it is really a question of educational efficiency, it is a very important question. It *is* important that students be given an opportunity to hear and read a variety of points of view, particularly on questions of social policy. In the words of John Stuart Mill, "There is always hope when people are forced to listen to both sides; it is when they attend only to one side that errors harden into prejudices."

THIS BRINGS US BACK finally to the matter of below-cost pricing. The necessity for finding funds to fill the gap between students fees and total costs is always potentially dangerous to the integrity of an institution, to its continued ability to offer a program which embraces a wide range of social philosophies and which is otherwise educationally efficient.

The reasoning runs as follows: While the piper must inevitably be subject to pressure from those who pay him, his opportunity to play a varied and personally satisfying concert is the greater the more numerous the sources of his support and the less dependent he is upon the support of one payer or one group of payers. In other words, his best protection lies in a wide diffusion of the economic power which he confronts. For example, if an institution becomes dependent on a government for support, the government will be strongly tempted to call the tunes. This control can and has been used to dictate not only the "proper" social philosophies for teachers but the "proper" content of the curriculum as well. Even the assumption

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that the government is controlled by majority vote of the citizenry is cold consolation to a professor or an institution that prefers the point of view of the minority.

In the same way, for a private college to become dependent on a few men of wealth, or on a relatively homogeneous alumni body or on corporation giving, is to create a potential for control and dictation. Of course, a mixing of all of these with student fees does provide considerable diffusion of power, and this is the real strength of the private college as compared to the public; but even this mixing may leave a few men or a few corporations in a position to wield extraordinary influence on the policies of the college. It must be insisted that there is no violation of inherent right if these men or corporations insist on exerting the influence they possess. They have helped to pay the piper and they have a right to call some of the tunes, but this is a situation in which the educational efficiency of the institution may not be maximized. Now sometimes these money-givers from among the philistines have a better idea of what the college should be doing than does the faculty and administration, but there is no reason to believe that their influence will always be benign.

Below-cost pricing combined with public and/or private subsidy creates a situation in which the integrity of the educational institution is not protected by that diffusion of economic power ranged against it which is the real protection of all units—households and firms alike—in a competitive market economy. The private colleges and universities—both because they depend more heavily on student fees and because they draw subsidies from a greater variety of sources—do seem more capable of maintaining an educationally efficient program than do the large, state-supported institutions. The argument is not that the public donor is more given to intervening or is less tolerant than the private donor. The argument is that the public donor agency may have control of as much as 80 per cent of the revenue sources of the institutions with which it is involved, whereas the private donor rarely has control over more than a small fraction of the revenue sources of the institutions with which he is involved.

BUT WOULD NOT FREEING the colleges from subsidy-oriented control and placing them under customer control be a move from the frying-pan into the fire? Is the college student really equipped to evaluate the service he is buying?[6]

This is a difficult question to answer. If I may be permitted to draw from my own experiences as a college teacher and college dean, I would say that the student is a much better judge of the quality of the educational services he is receiving than he is commonly held to be. In the main, students *are* able to distinguish between those faculty members who provide excellent learning opportunities and those who provide mediocre or worse. The testimony on which the student has been convicted as a poor judge is the testimony of those who are themselves the object of the judging and who have traditionally resented the very practice of student appraisal.

And here again it must be remembered that the student's family often participates in the decision-making, adding the maturity of adult critical faculties to the immediate impressions of the student.

However, the greatest benefit to be derived from customer control is that the judgment of no one customer is critical to the operation of the institution. No small group of legislators, no small groups of corporations or individuals, must be placated for the institution to survive and prosper. Nor need all institutions serve the same type of customer. The critical customer can be told to go elsewhere, because no one customer is

[6] Thus, Howard Mumford Jones of Harvard University writes, "It is a misleading function when the concept of learning is, as is too often the case, sacrificed to the concept of teaching; when, for example, adolescents are solemnly asked to rate mature scholars in terms of their entertainment value in the classroom, and an administration in turn seriously accepts these callow judgments as a factor in the keeping and promoting of scholars." H. M. Jones, "The Service of the University," *ACLS Newsletter*, Winter, 1956-57, p. 12.

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of great significance. To repeat, it is not the "quality" of the power wielders but the diffusion of power under customer control that protects the integrity of the institution.

In sum, below-cost pricing inevitably creates a threat to what has been called "academic freedom," or "educational efficiency." To expect those who provide the subsidies to refrain from interfering with the operation of the school is to make a demonstrably weak assumption. On the other hand, to do as many seem to feel appropriate, to somehow "force" the donors (perhaps through the operation of an organization like the American Association of University Professors) to keep their hands off the institutions they have subsidized is to deny another important freedom—the freedom of each man to choose the purposes to which his money resources are to be put. This is particularly true when the donor is the taxpayer who does not have the immediate option of stopping his contributions. He is ordered to pay and then is told that he must not question the purposes to which his money resources are to be put. Under the system of below-cost pricing there is no way of guaranteeing so-called "academic freedom" that does not involve a denial of other freedoms — or that does not demand of the donor a superhuman restraint from directing the uses to which his funds are to be allocated.

TWO PRIMARY ARGUMENTS are advanced in support of below-cost pricing. One is based upon the assumption that the benefits of higher education flow not only to the students who are the direct customers of the schools, but also to society at large—that every member of society profits from being surrounded by and led by an educated citizenry. The other is the pure egalitarian argument that the principle of equality of opportunity demands that each young man and each young woman be given the opportunity of attending college, regardless of ability to pay for the services rendered. These arguments will be examined in turn.

The traditional thesis is that the student "captures" only a part of the gain that flows from his college education. Some part of the gain flows to society at large. Thus, in the Northwest Ordinance of 1787 we find the following statement: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

The student tends to push his purchases of education only to the point where the *private* gain from another unit would be equal to the cost of another unit. However, it is in society's interest that he push his purchases beyond this to the point where the *social* gain from another unit would be equal to the cost of that unit. This requires that the student receive a subsidy sufficient to induce him to purchase the additional units of education.

But even if this principle be accepted, below-cost pricing does not inevitably follow. The subsidy could be provided directly to the student to permit him to pay the market price to whatever institution he chooses to attend. We have implemented our desire to provide bread to those who do not have the means to buy it, not by asking bakeries to sell all bread at below-market prices and then subsidizing the bakeries, but rather by providing a direct subsidy to the families involved. In particular, we have not insisted on the government actually operating bakeries to take care of this problem. The thesis under study does *not* establish a need for government-operated educational institutions, and in fact, on other grounds, there is good reason to prefer privately operated to publicly operated colleges and universities.

Nor does this thesis establish any case for below-cost pricing of (or even for subsidy to) *all* the services now provided by higher education. It seems to establish a case only for those programs of education which contribute to the citizenship qualities of the individual. Surely those courses which are primarily vocational in nature make only an insignificant contribution to the development of the citizen.

Professor George Stigler of the University of Chicago has commented on this issue as follows:

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The basic defense for public and private subsidy of higher education is of course that it confers large social benefits, quite aside from any benefits accruing to the individual. This defense is largely wrong, simply as a matter of fact. The majority of college students concentrate their efforts on vocational studies whose general social value is measured, comprehensibly and with tolerable accuracy, by the earnings of the graduates. In 1954, of 187,500 bachelor's and first professional degrees received by men in the United States, 63.1 per cent were vocational degrees. For women the corresponding percentage was 54.8. The largest fields were:

Business Administration	35,255
Engineering	22,264
Education	16,885
Medicine	16,458
Law	8,687
Agriculture	7,687

The general scientific and cultural values of these disciplines scarcely call for something like a 50 per cent subsidy of the costs of institutions of higher learning.[7]

The principle of social benefit at best calls for subsidy only to the traditional liberal arts programs of colleges and universities and even there does not require below-cost pricing as the technique of implementation. Direct subsidy to the individual student would serve equally as well.

Finally, it might be argued that the social benefits deriving from formal higher education have been much exaggerated. These benefits probably come primarily at the lower levels of education, particularly in the instruction each child receives in the basic skills of communication. Once a young person has acquired these skills, a whole world of knowledge is opened to him, a world in which formal classroom education is only one of many alternatives. It would be difficult to prove that the college graduates in this country have been "better" citizens (if even a yardstick could be found) than the high school graduates. Far from under-emphasizing the importance of formal higher education, we may have grossly exaggerated its importance to the maintenance of our free society.

[7] G. J. Stigler, "The Economic Theory of Education," an unpublished manuscript.

THE SECOND ARGUMENT advanced in support of below-cost pricing is that equality of opportunity must be assured and that this demands equal educational opportunity for all.

In the first place, it should be pointed out that this too would justify only subsidy *in some form*, and provides no specific support for below-cost pricing of the services of higher education. On the contrary, below-cost pricing is a technique that subsidizes the sons and daughters of the wealthy as well as the sons and daughters of the poor. If the goal is to make education available to those who cannot afford it, below-cost pricing is a very blunt and wasteful instrument. Thus, even if the egalitarian view is accepted, far from justifying below-cost pricing, it condemns it as an inefficient means of achieving the desired end.

But the thesis that equal access to higher education, regardless of financial ability to pay for it, is a *sine qua non* of equality of opportunity is not of unquestionable validity either. Support for this thesis usually involves pointing to the demonstrably higher lifetime earnings of college graduates *vis-à-vis* non-college graduates. The inference is drawn that the college education is itself the *cause* of the higher earnings.

One of the most important principles of statistics is that correlation is not the equivalent of causation. In this case, the high correlation between years of education and lifetime earnings may derive in part from the fact that those who attend college possess a generally higher potential to achieve than those who do not. These same people would probably attain to higher income positions even if they were not to go to college. In the same way, those who attend college tend to come from higher-income families than those who do not, and they have such advantages as may come from a firmer financial base as a platform for the launching of a career. Finally, there is good evidence in the current and recent economic history of this country that a young man or woman without a college education is capable of making

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rapid economic progress.[8]

Moreover, those who wish to be educated do not face just the one alternative of formal, classroom education. Each person in our modern society is surrounded by opportunities for acquiring the knowledge, skills, and understandings that are the end-product of higher education. One increasingly important set of such opportunities is to be found in the education programs sponsored by business firms for their employees. In addition, there is evidence that the young adult, with some work experience behind him, makes much better use of educational opportunities than does the young person of 18 to 22.

In other words, there is no clear evidence that income earning possibilities are a direct function of education; and even if this could be established, it would still be difficult to prove that formal college education is the only kind of educational opportunity which promotes this end.

Admittedly, there are certain professions (*e.g.*, law, medicine, and engineering) which are open only to those with a certain minimum of formal education; but in most of those cases, the lifetime earnings of those who received the training would easily permit them to pay for their education on a deferred-payment basis. All that is needed here is a capital market that will permit the treating of professional education as an investment in personal capital.

Confirmation of this thesis is found in one unexpected place: in a book whose central thesis is that higher education must be even more subsidized than at present, including a substantial increase in Federal aid to higher education. The book is *A New Basis of Support for Higher Education,* by Thad L. Hungate, Controller and Professor of Education, Teachers College, Columbia University.

In one paragraph he says, "While students and parents may continue to finance student living costs, neither fees nor living expenses should bar a student who has met defined state standards and has been admitted to and accredited for attendance. State aid should supplement family means as needed for this purpose." [9] Yet in the very next paragraph he adds, "It is considered likely that each beneficiary of a college education so lifts his lifetime earnings that the increased taxes he pays will more than repay to society the initial capital it has invested in him."[10] If his increased earnings will permit him to repay the taxpayer, they will also permit him to repay a lending agency on the private capital market! Far from establishing a case for public subsidy, this statement weakens the case for public subsidy and strengthens the case for letting each student finance his own education from some combination of current and anticipated resources.

In sum, the argument that higher education must receive public subsidy to assure equality of income-earning possibilities is questionable in both theory and practice. There is no clear evidence that a formal, college education is itself a cause of higher lifetime earnings; but if it could be established, it would establish not a need for public subsidy, but rather a need for an improved capital market to permit students to pay for their schooling out of the higher earnings produced by that schooling.

IT MIGHT BE ARGUED that the primary inequality associated with less than universal higher education is a *social* inequality, that the non-college person is denied entry to the social circles of the college graduates. This may or may not be true. Certainly there is some evidence that many Americans

[8] An interesting reason for one advantage of the college graduate over the non-college person is to be found in the comment of an executive of one of the large steel companies. He says that his company hires so many college graduates each year in its executive development program, not because they have found college graduates to be clearly superior to non-graduates, but because the union rules on seniority prevent them from advancing the really good men from the work force into positions of responsibility. The same rules do not govern the young college graduates hired directly into the management group, and from this follows the company's search for college graduates!

[9] T. L. Hungate, *A New Basis of Support for Higher Education* (New York: Bureau of Publications, Teachers College, Columbia University, 1957), p. 7.

[10] *Ibid.*

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look upon the college degree as little more than a card of admission to "polite" society. This case is usually stated less boldly by the philosophers of American higher education. Their stress is upon the "democratizing" influence of our educational system. Thus, Howard Mumford Jones writes,

> . . . the American university operates, and operates successfully, because it is staffed by Americans reared on that simplest of all formulas for getting men to work together, the democratic formula . . . . The great virtue of this remarkable invention is that it rests upon a particular theory of education, including higher education, as a form of public service. The great reproach brought against the ivy colleges in the old days was, indeed, that they did not recognize this doctrine, but were on the contrary expressive of snobbery. The eventual response of the ivy colleges to this reproach is, I think, illuminating. They did not defend the necessity, perhaps even the duty, of creating an intellectual elite; . . . on the contrary, they demonstrated that they are just as public and popular as anybody else. With us, in truth, the popular theory has triumphed over the concept that the nation needs an intellectual elite, and the notion of the university as a service institution prevails in the United States to a degree that astonishes the foreign scholar.[11]

It may well be that making the college degree available to all has a levelling effect on the social system. The colleges and universities may be primarily institutions dedicated to the task of giving young people membership cards in an eventually universal club of college graduates. If so, it is serving a futile purpose. Nothing is surer than that man will develop forms of social differentiation and if one form is eliminated, another will take its place. To pander to envy is hardly a useful and noble role for higher education.

Nor is it likely that the quality and nature of its services will remain unaffected by this goal. Already there is good evidence of the impact of the demand of education for all on the qualitative characteristics of higher education. It would be interesting to speculate on what would happen to the quality of a "prestige" car like the Cadillac if we were to endeavor to make one available to each family so that no family would have to feel inferior to another. It is quite legitimate to argue that education must be made available to all because otherwise education becomes an element in an unwanted social differentiation, but to so argue is to attempt to satiate man's unlimited capacity to envy his fellow man. Also, it must carry with it certain modifications in the character of higher education which not all would find desirable.

IN SUMMARY, THE following conclusions can be drawn: The present system of below-cost pricing of higher education creates a number of serious problems. These include the problem of deciding which young people are to be admitted to college and then which are to be permitted to continue; the problem of low motivation of many students; the problem of motivation of faculty members created by the fact that they are not paid by their students; and the problem of educational efficiency created by the need to find resources to cover the annual deficits of colleges and universities. The arguments presented to establish the desirability of public and/or private subsidy to higher education, even if accepted, do not demand below-cost pricing. They call only for subsidy in some form, and the problems associated with below-cost pricing suggest that the subsidy should be provided in other ways, perhaps through grants to individual students.

The arguments for subsidy to higher education are not of unquestionable validity. The "social benefit" argument seems to have been exaggerated and at best would apply only to the non-vocational types of higher education. The "equality of opportunity" in the opportunity-to-income sense, cannot be verified by a study of the recent and current economic history of this country. If it could be verified, it would establish not a case for subsidizing higher education, but rather a case for an improved capital market to permit students to borrow against future earnings to meet current

[11] H. M. Jones, *op cit.*, pp. 9-10.

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educational expenses. The "equality of opportunity" in the sense of opportunity to acquire the social status of a college-trained person may be valid, but this would make of higher education a technique for satisfying a futile and none-too-noble purpose.

IF THE ARGUMENTS developed in this article were to be accepted as valid, what policy changes would seem to be required? Would these changes not call for an unrealistic assumption of the willingness on the part of the American people to modify the traditional arrangements in higher education? Certainly it is true that traditional arrangements cannot be changed quickly or with ease —and this is not an unmixed evil. A certain caution in making changes is usually wise.

It is particularly difficult to secure any reduction of subsidies to special groups, and in particular to secure reduction of subsidies coming from public funds. Those who lose the subsidy lose a considerable sum per capita; those who are relieved of paying for the subsidy gain only a small sum per capita. Thus, the subsidized tend to be much more vocal and aggressive than the subsidizers. However, there is a growing awareness of the frightening financial load of higher education to be expected in the next 10 or 15 years. Some state legislators are already demanding that the state-supported schools increase tuition charges to students.

Clearly any changes would have to begin with the charges at state-supported schools. The private colleges and universities cannot hope to move much closer to full-cost tuition charges until the tuition charges at state-supported schools are increased substantially. The differential in tuition costs already operates to place the private schools at a serious competitive disadvantage.

The first step would seem to be for state-supported institutions to set up a pattern of tuition increases designed to increase the percentage of costs covered by tuition payments. This pattern could call for a final position in which the revenues from tuition fees would be approximately equal to total costs. This could probably be done, of course, only if the state were to also provide an increasing supply of straight grants or loans to students. It would seem to be desirable to move as quickly as possible to the use of only loans to students pursuing strictly vocational courses, and to increase the ratio of loan money to grant money for all students. These state loans and grants could also go to students attending privately operated colleges and universities. This would certainly be consistent with the general principle, but the private colleges would probably be able to bring students in touch with private sources of loan or scholarship money and might probably prefer to do so. In fact, there would be good reason for the state governments to vacate the lending position as rapidly as the private money market could service the needs of students.

This article is basically neutral on the question of whether government aid should come from local and state units or from the Federal government. However, the principle of diffusion of power would seem to establish a preference for local and state units. Also, the general reduction in the financial responsibilities of government for higher education under this plan would largely dissipate the case now being made for Federal aid to higher education.

IT IS PROBABLY unrealistic to expect that higher education in this country could be recast in the ultimate pattern implied in this study; but it is not unrealistic to suppose that progress could be made in bringing all tuition charges closer to the level of full-cost, in greater use of loan techniques in the financing of all education and in the financing of vocational education in particular, and in making greater use of the private capital market in the financing of investments in education. These changes would also tend to place an increasing emphasis on private as compared to public sponsorship of institutions of higher education. If the arguments advanced in this article are valid, all of these changes would work to the benefit of higher education and of the American society.

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Trends in the U. S. Supreme Court

PHILIP B. KURLAND

I INTEND TO CONFINE my observations to the constitutional aspects of the Supreme Court's work. It is here that the Court performs its unique role as ultimate arbiter of the meaning of our fundamental law; law beyond the power of the other branches of the government to revise and, for the most part, beyond the control of the people themselves.

Looking over the past decade of the Court's work — roughly the period between the school desegregation cases[1] in 1954 and the reapportionment cases[2] of 1964, one quickly discovers that the Justices have wrought more fundamental changes in the political and legal structure of the United States than during any period in our history since Mr. Chief Justice Marshall first wrote meaning into the abstractions of the Constitution's language. To make my essential point at the outset, the problem is not primarily whether in one's personal opinion these changes are good or bad; but whether the Supreme Court, constituted as it is by nine lawyers with life tenure and politically irresponsible, is the proper organ of government to accomplish the goals it may decide to set for this country.

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THREE DOMINANT MOVEMENTS are evident in the Court's recent work. First and foremost has been the emerging primacy of equality as a guide to constitutional decision. Perhaps an offshoot of the Negro Revolution that the Court helped to sponsor in *Brown v. Board of Education*,[3] the egalitarian revolution in judicial doctrine has made dominant the principles to be read into the Equal Protection clause of the Fourteenth Amendment rather than the Due Process clause, heretofore the polestar of Supreme Court action. Just as the Court read its own notions of appropriate governmental policy into its creation of substantive due process in the period that culminated in the 1930's, so we now have a similar construction by the Court of what the Swiss have most appropriately called "substantive equal

[1] *E.g.*, Brown v. Board of Educ., 347 U.S. 483 (1954).

[2] *E.g.*, Reynolds v. Sims, 377 U.S. 533 (1964); Lucas v. Colorado General Assembly, 377 U.S. 713 (1964).

[3] 347 U.S. 483 (1954). In retrospect, the importance of *Brown* inheres as much in the fact that it shook the equal protection clause completely loose from its moorings in history as in its substantive ruling. This is not to suggest that heretofore history had been a controlling factor in the application of the equal protection clause, but only that it had not been, as it would now seem to be, totally irrelevant except in its more fictionized versions.

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protection." The decisions in the school segregation cases, the sit-in cases, and the reapportionment cases are merely the most prominent of a very large number of decisions pushing this egalitarian theme. Quite clearly the movement is at its inception; certainly it is nowhere near its conclusion.

Two fundamental difficulties face the Court in this effort, or would face the Court were it more conscious of its obligation to justify and explain its judgments. The first is the question whether the Equal Protection clause empowers the Court to eliminate not only the inequalities imposed by law, but the inequalities that derive from non-governmental action or inaction, the social and economic inequalities as well as the political inequalities. Until now the Court has successfully avoided confrontation of the problem either by finding governmental action where few others can discover it, as in the sit-in cases that preceded the Civil Rights Act,[4] or by sweeping the problem under the rug, as in the sit-in cases decided by the Court since the Civil Rights Act.[5]

The second major problem presented by the new egalitarian movement is the task of adequately reconciling the competing claims of equality on the one hand with liberty and other fundamental guaranties on the other.[6] Again the confrontation has not been publicly made, although the conflict was revealed in the 1963 Term in the Court's split over its own power to command that private business concerns make their premises, goods, and services equally available to all.[7] The split in the Court was all the more interesting because it separated Mr. Justice Black, heretofore the acknowledged intellectual leader of the "liberal" wing of the Court, from Justices Goldberg and Douglas, who have now assumed the role of leading the levellers. Mr. Justice Goldberg, for example, expressed himself — extracurricularly—as believing that equality and liberty were one and the same.[8]

This short article is not the place to document further my proposition of the Court's new egalitarian pose. Those who are hardy may find some of the details set out in a recent article of mine in the Harvard Law Review.[9] Those of you who are foolhardy can look forward to seeing them expressed at greater length in a book I hope to publish soon.

LET ME TURN THEN to the second prominent theme of current Supreme Court adjudication. This one, however important, is hardly novel. I am referring to the effective subordination, if not destruction, of the federal system. This movement is not entirely disparate from the egalitarian push, for each is a drive toward uniformity and away from diversity. Equality demands uniformity of rules. Uniformity cannot exist if there are multiple rulemakers. It follows that the objective of equality cannot be achieved except by the elimination of authorities not subordinate to the central power. It, too, is an important part of our political and social and economic movement away from diversity towards conformity.

Because of its lack of novelty there is no need to dwell on the Court's behavior on this front. Perhaps the most amazing fact about the Court's recent infringements on state authority is that, having taken so much power away from the states, it continues to find more to take away. But one point should perhaps be made clear. Governor Rockefeller in his 1962 Godkin lectures at Harvard said:

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[4] *E.g.*, Peterson v. Greenville, 373 U.S. 244 (1963).

[5] *E.g.*, Hamm v. City of Rock Hill, 379 U.S. 306 (1964).

[6] On the question of the meaning to be assigned the term "equality" see Wollheim, "Equality," in *Proceedings of the Aristotelian Society, 1955-56*, London, LVI, p. 281; I. Berlin, "Equality," *ibid.*, p. 301. On the question of the appropriate resolution of conflict between "liberty and equality," compare R. H. Tawney, *Equality* (4th ed.; New York: Capricorn Books, 1952), with F. A. Hayek, *The Constitution of Liberty* (Chicago: Univ. of Chicago Press, 1960). The comparison is not intended to suggest that "liberty" is the watchword of conservatism and "equality" the battle cry of revolution.

[7] Bell v. Maryland, 378 U.S. 226 (1964).

[8] Arthur J. Goldberg, "Equality and Governmental Action," 39 N.Y.U. L. Rev. 205, 207 (1964).

[9] "The Supreme Court, 1963 Term, Foreword," 78 Harv. L. Rev. 143 (1964).

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"The reports of the death of federalism, so authoritatively asserted in the nineteen-thirties, were, as we have seen, highly exaggerated."[10] But the Governor obviously had a different concept of federalism in mind than I do here. Certainly, as the Governor pointed out, state governments are bigger than ever, both in the amount of money they secure and disperse and in the number of tasks they perform; but this reflects not the continuance of federalsm but merely the growth of the role of government in modern society.

As Rector K. C. Wheare of Exeter College, Oxford, in his book on federalism, has pointed out: "What is necessary for the federal principle is not merely that the general government, like the regional governments, should operate directly upon the people, but, further, that each government should be limited to its own sphere and, within that sphere, should be independent of the other."[11] As you all know, there are today few, if any, governmental functions performed by the states that are not subject either to the direct control of the national government or to the possibility of preemption by the national government. The concept of separate sovereignties within this country is now largely a matter of history. Vestigial remains are perhaps still to be found in the fields of education and health and the administration of criminal justice, but even here state power is clearly on the wane. It is especially in the area of control of police and prosecution that the Court has, in recent years, drawn the reins tighter and tighter.

It would not be correct to leave the impression that this fundamental revision of governmental structure was brought about solely by the Court. Advances in transportation, communication, and science, which reduced the size of the world, were the primary causes. The rise of the United States as a world power was certainly a most important factor. And the essential default of the states in failing to assume the responsibilities that were theirs cannot be ignored. But the Court, too, has made and is making its contribution. It may be that federalism is no longer desirable or feasible. The question remains, who should make that judgment. Ought it, or must it, be the Court?

THIS BRINGS ME TO the third of the major trends discernible from a study of the Court's efforts over the past ten years. I have in mind the enhancement of the judicial dominion at the expense of the power of other branches of government, national as well as state. Again it is not a novel theme. In the past, the Court's powers have risen and declined like the business cycle; but like the recent economic prosperity, the Court's recent dominance has been unusually long-lived and shows no signs of recession. (Automation creates no problems here.) There was, at one time, a fairly substantial area of governmental action that the Court had wisely declared off-limits for itself. The reapportionment cases seem to have dealt a fatal blow to the idea that there are certain functions of government beyond the competence of the Court to perform. There was, at one time, a notion that the Supreme Court was a court like other courts, called upon to resolve specific controversies between specified parties and not to lay down general blueprints for the reorganization of society. For Mr. Justice Brandeis, for example, if not for his successor: "If the Court were to exercise its grave function of reviewing the validity of co-ordinate branches of government, the Court must be careful to keep within its appointed bounds as a condition of judging whether others had kept within theirs."

This calls to mind the fact that the Court in recent years has struck down so much Federal legislation as unconstitutional that it is reminiscent only of the activities of the nine old men in their frustrated attempt to dam the tide of the New Deal. Certainly it is true that the Court has engaged in this pastime of judicial review since it was invented by Mr. Chief Justice Mashall in *Marbury v.*

[10] N. A. Rockefeller, *The Future of Federalism* (Cambridge, Mass.: Harvard Univ. Press, 1962), p. 29.

[11] K. C. Wheare, *Federal Government* (4th ed.; New York: Oxford University Press, 1964), p. 14.

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Madison. Even so, striking down two statutes in a single Term is a little better than par for the course; and that is what the Court accomplished at the 1963-64 Term. In an opinion by Mr. Justice Douglas, it held that it was so unreasonable as to be unconstitutional for Congress to say that the benefits of citizenship conferred on a foreign-born person are dissipated when the citizen returns to his homeland for an indefinite period of time, perhaps never to return to this country.[12] In an opinion by Mr. Justice Goldberg, *Aptheker v. Secretary of State,* it held that no legitimate governmental purpose could be served by denying passports to all members of the Communist Party and therefore no legitimate governmental purpose could be served by denying passports to the chairman of the Communist Party and its chief theoretician.[13]

IT IS ONLY FAIR TO note, however, that the Court treats its own precedents with no less disdain than it accords Congressional legislation. Indeed, a Court that considers its pronouncements to be "the law of the land" might be expected to pay more respect to its own opinions. The fact of the matter is that the number of its own cases overruled by the Court in the past decade, either openly or covertly, have accelerated at such a rate as almost to remove the hyperbole from Mr. Justice Roberts' charge that the Court's judgments were coming to be like railroad excursion tickets, good for this day only.

I shall not burden the reader with the details of my complaint about the technical deficiencies of the Court's performance except to quote from an article written over seven years ago by two members of the Yale Law School faculty, in which they said:

> The Court's product has shown an increasing incidence of the sweeping dogmatic statement, of the formulation of results accompanied by little or no effort to support them in reason, in sum, of opinions that do not opine and of per curiam orders that quite frankly fail to build the bridge between the authorities they cite and the results they decree.[14]

I would report here only that the difficulties suggested have become exacerbated rather than resolved in the more immediate past.

The Court has not, however, acted entirely without excuse for its behavior, although there are some who think the excuse is not adequate. The essential justification is that the Court has acted, perhaps overacted, as the conscience of a nation when no other branch of our government was capable of demonstrating adequately decent behavior. Certainly there is merit in the argument when one considers the conduct of our other governmental departments in the face of the abuses that the community has rained on the Negro; the evils of McCarthyism, and the continued restrictions on freedom of thought committed by the executive and legislative branches of our national and state governments; the refusal of the states and the nation to make it possible for the voices of the disenfranchised to be heard; the continued use of police tactics that violate the most treasured rights of the human personality. The list may be substantially extended, but to no good purpose here. There can be little doubt that the other branches of government have failed in meeting some of their most fundamental obligations to provide constitutional government.

This justification may be inadequate, however, because the Court's conduct has gone far beyond the necessity suggested by the action or inaction of the elected officials of our government. Or it may be inadequate because, as Learned Hand once told us, "a society which evades its responsibility by thrusting [it] upon the courts . . . in the end will perish."[15]

THE SOLUTION OF THE problem of excessive judicial power, of what Leon-

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[12] Schneider v. Rusk, 377 U.S. 163 (1964).

[13] Aptheker v. Secretary of State, 378 U.S. 500 (1964).

[14] A. M. Bickel and H. Wellington, "Legislative Purpose and the Judicial Process: The Lincoln Mills Case," 71 Harv. L. Rev. 1, 3 (1957).

[15] *The Spirit of Liberty* (2nd ed.; New York: Alfred A. Knopf, 1953), p. 164.

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ard Boudin called, in the 1930's, "Government by the Judiciary," of what Morris Ernst damned at the same time as "The Ultimate Power," is not to be found in the various gimmicks that have been suggested for limiting the Court's jurisdiction or subordinating it to so silly an institution as "The Court of the Union," any more than it was to be found in 1937 in Roosevelt's "court-packing plan." The answer must be found in making the judicial branch of the government politically more responsible without impinging on its independence. It should be remembered, as Sir Winston Churchill was fond of pointing out, that the success of Anglo-American democracies has depended in no small part on the independence of the judiciary.

Such an answer, if it is to be found anywhere, may possibly be found in the responsible utilization of the amending power. I would emphasize the qualification that the utilization of the amending power must be responsible. Recent efforts to push amendments through state legislatures without the knowledge of the people of the states is not what I have in mind, for there are, of course, serious dangers in an expanded use of power of constitutional amendment. The people of California have only recently provided us with some examples of silly, if not tragic, behavior in this regard. Professor Paul Freund has told us that the essential difficulties are threefold.[16]

The first, and I think the most important, is that "proliferating amendments would impair the sense of attachment to the old and familiar, the spirit of loyal devotion to a deeply rooted institution." The second is that amendment may precede second thoughts that would demonstrate the undesirability of the amendment. The third is that an amendment may create more difficulties than it would solve.

In no small measure, the Founding Fathers anticipated two of these difficulties in providing for the means of constitutional amendment. The method is sufficiently cumbersome to assure that no large number of amendments could be successfully promulgated. The same lack of ease of amendment would provide more than adequate time for second thoughts to prevent unduly hasty action. The problem of the "risk of substituting new dissatisfactions for old, new uncertainties for old perplexities," can be avoided only by dealing with proposed amendments with the care received, for example, by the proposed School Prayer Amendments in the House Judiciary Committee.

There is, however, a prerequisite to the utilization of the amending process, a prerequisite that will both justify the process and, in many instances, make it superfluous. That prerequisite is a real comprehension on the part of the electorate of the role and performance of the Supreme Court. The obligation of this understanding falls particularly on the leaders of the community, for, I think I can say without fear of being proved wrong, that the press has failed in its obligation to educate the public about the decisions of the Court. It is also unfortunately true that the bar has failed in this regard; too few lawyers are themselves concerned with the efforts of the highest judicial tribunal in the land. Only an educated public can understand whether judicial decisions appropriately call for constitutional amendment. At the same time, an educated and aroused public may make the Court politically more responsible than it has been. It may, at times, even convince the Court itself to reconsider constitutional judgments that it has promulgated. History shows that the Court understands that, to use Professor Thomas Reed Powell's phrase, "a switch in time saves nine."

In conclusion, like another unsuccessful campaigner, I would remind you that the people get the kind of government they deserve. He was speaking of the elected branches of government, but I think it is also true of the Supreme Court. If the country thinks it deserves better, it should do something about it.

[16] P. A. Freund, "To Amend—or Not to Amend—the Constitution," *New York Times Magazine*, December 13, 1964, pp. 33ff.

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How Soviet Planning Works

G. WARREN NUTTER

IN AN AGE OF romantic pragmatism, such as we now endure, keeping faith with logic, principles, or the facts is likely to be considered a curious eccentricity, perhaps deserving tolerance on occasion but seldom worthy of emulation. Nothing succeeds, in such an age, quite like success. Surely, nothing fails like failure. Never mind if you are wrong as long as you succeed. Right or wrong, beware only of failure.

Rationalization waxes as reason wanes, and here enters the role of the intellectual; for he is set off from other mortals as much by his impressive powers of rationalization as by anything else. To him, failure is no more difficult to "explain" after the fact than is success, even when the one historically follows the other and the two "explanations" are mutually inconsistent. Hence we grow accustomed to the spectacle of intellectuals scurrying to get off one bandwagon that has stalled and onto another that is gathering speed.

As a case in point, when it was popular only a short time ago to believe that the Soviet economy was sweeping all before it, the main body of Western intellectuals spoke almost of one voice in praising the Soviet brand of central planning as the reason for success. In urging their own countries to heed this unmistakable lesson of history. Learned acticles were even being written on "why Stalin was necessary." Now the mob has swung around in the opposite direction; now they accuse this same system of bringing about inevitable economic failure and applaud Soviet officials for talking about reform. Why this change in attitude, one might ask? Can it be simply because it is no longer popular to view Soviet economic performance as an unprecedented and unmarred string of successes? The failures that were always there to be seen by the discerning eye have become too apparent to be hidden from anybody by propaganda. In many ways there is little difference in the realm of intellectual discussion between what goes on inside and outside the Soviet world. The basic difference, perhaps, is the intensity of argument. Formerly Soviet literature contained the most uncritical adulation of centralized planning. Now it contains the most severe criticism.

BUT THIS IS ALL BY way of introduction, because I want to discuss another, though related, kind of romanticizing that has helped make scholars blind to what was really happening in the Soviet economy. I have in mind the propensity to idealize, to elevate form above substance, to impute purpose to chance—in brief, to see order in disorder or even in chaos. The point is that West-

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ern scholars have not, as a rule, seen the Soviet system for what it really is: a set of institutions that has arisen out of an historical process of trial and error, and survived the various tests along the way. Their vision of the system has instead been almost idyllic, imposing a logic of design, a purity of function, and a simplicity of structure that have little or nothing to do with reality. Thus, the typical textbook on the Soviet economy has an early chapter on central planning that usually begins with a discussion of what one would want to do if one ran an economy; continues with an analysis of how one could efficiently do this by somehow solving an impressive array of simultaneous equations; and concludes with a description of how Soviet planning performs these functions. In other words, the actual system is made to conform with a preconceived ideal whether it does or not.

Perhaps a better way to understand central planning would be to start with the definition given by Mark Spade in his charming little book *Business for Pleasure*, the sequel to *How to Run a Bassoon Factory*.[1] Spade says: "The difference between an unplanned business and a planned one is this: (1) In an unplanned business things just happen, i.e. they crop up . . . . On the other hand: (2) In a *planned* business things still happen and crop up and so on, *but you know exactly what would have been the state of affairs if they hadn't.*" There is, of course, more to the matter than this, but not as far as planning itself is concerned. We all know about the "best laid plans of mice and men," and yet we persist in applying the term "planning" to quite different social processes. We forget that this word was put into currency for its propaganda value, not its descriptive accuracy.

Instead of talking about planning, central or otherwise, we should be talking about ways of organizing social activity. At base, social organization must be achieved through custom, contract, or authority. No society has ever existed—or could exist—that relied on one principle to the full exclusion of the others, and hence the only sensible way to distinguish societies is in terms of the different roles played by each.

There is, however, a point to visualizing pure forms of social organization, if only to get our thinking straight. Let us start with an imaginary society ruled solely by authority. This would be best described as a corporate or hierarchical order. Everything that is done is done in response to an order passed down from a superior to a subordinate. Everybody has a boss—everybody, that is, except the supreme boss. The prototype is a military force, and a society exclusively run by a corporate order would simply be an army.

BY CONTRAST, ORGANIZATION by contract means a social order based on mutual interaction or voluntary association, whichever way one wishes to think of it. The purest form is the ideal market place, where individuals freely exchange their wares for mutual benefit.

No one but a diehard and deluded anarchist can conceive of a society based solely on contract. No one but a demented and doomed dictator can conceive of one based solely on authority. In any event, there are no historical examples of either, and there will never be any. All this is painfully obvious, not to mention trite. The family itself is an authoritarian body, though it may not always be clear who is the boss. A private enterprise—the organizing entity in a market economy—is also a corporate form; and no authoritarian system of any size can survive without some markets and other realms of mutual interaction within it.

But to get down to cases. The Soviet system may be described as basically a corporate order with a large area of contractual and customary behavior—some authorized, some merely tolerated, and some strictly illicit. The functioning of the economy is necessarily conditioned by this mixture of elements, and it is misleading to neglect any of them. As in the case of all economic systems, organization of the Soviet economy has three aspects. First of all, there must be

[1] N. Balchin (pseud. M. Spade), *How to Run a Bassoon Factory; or, Business Explained and Business for Pleasure* (London: H. Hamilton, 1956).

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planning or thinking ahead. Second, there must be basic decisions on what the economy is to try to do. Third, there must be administrative d i r e c t i o n of activity.

Planning, in the narrow sense used here, is essentially a staff function. Somebody sits down and reviews the record of past performance, imagines how things have or could be changed to alter that performance, and maps out a program or programs designed to achieve goals supplied by somebody else. No society can keep going unless somebody, somewhere is looking ahead in some degree, but this is just another way of saying that man differs from other animals in at least this respect. It is equally clear that no society can run on planning alone.

Obviously somebody has to have the power to decide which program is to be followed. In the Soviet Union, this power is focused in a small self-perpetuating elite, and ultimately in the hands of one man or, at most, a small committee of men. Yet this group cannot decide everything. Like the great generals of history, it must leave small decisions to lieutenants if it is to make the big ones. The cardinal decision, as far as the economic sphere is concerned, is how the fruits of social activity are to be divided, first, between the state and the populace, and, second, between the present and future in each case. The overriding objective is reasonably clear and simple: enhancement of Soviet power, and thereby the power of the elite; but there remains the more important question of how this goal can be realized. In particular, there is the annoying problem of how to get the right mixture of power now and power in the future.

Let us put the problem in its crudest form. Military force is surely a key element in Soviet power, yet a smaller force now makes possible a larger one in the future. Similarly, the volume of goods available both now and in the future is not independent of what is given to the populace. The basic question boils down to this: When, in point of time, should the power of the state be maximized? The subsidiary problem is then how to arrange affairs to get the desired result. These are the kinds of decisions the Soviet planners must make, and they make them on the basis of the configuration they perceive in the giant chess game they are playing with the world. Just as to plan is not to decide, so to decide is not to do. Somebody has to get things done—to organize and manage activities with at least the intent of fulfilling basic decisions. This, in fact, is what most people seem to have in mind when they speak of "central planning"; and so I want to center the remainder of my remarks on how the Soviet economy runs.

650

FIRST, LET ME REPEAT my opinion that one gains little in understanding from abstract theorizing about central planning. Perhaps there will be a time when it will be relevant to talk about how Kosygin, or somebody else, optimized this or that through material balances or electronic computers or input-output techniques or linear programming or some as yet undiscovered but revolutionary device of social engineering; but that time is not now, and it was less so every year one goes back in Soviet history. Let me further state—as a simple act of faith, if you will—my conviction that it is beyond the ingenuity of man, no matter how far the science of social engineering may progress, to devise ways of running a society as large as the Soviet Union without significant recourse to contract or custom. Unless, that is, one is willing to abandon altogether the notions of efficiency and rationality, and to quit raising the question of how end results are related to original intentions.

Whatever may be the ultimate limits of a corporate order, the fact is that the Soviet economy is run only in part by command and obedience. It is also run by adjustment and even by inertia. There is no more sense in attributing all good or ill in the Soviet economy to centralized direction, without regard to the role played by markets and related institutions, than there is in saying that a man stays alive by breathing in, regardless of what he does about breathing out.

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Markets pervade the Soviet economy, and their role has steadily grown since the early thirties. Some, like the so-called collective farm market, are open and legitimate. Others pass through the various shades of gray. Who has not heard of the "fixers" and "pushers"—the *tolkachi?* Of institutionalized influence peddling — the system of *blat?* Of the elaborate markets for exchanging apartments? Of "speculators" and other entrepreneurs, who sometimes achieve momentary fame on their day of execution? And so on and on. It is literally inconceivable that centralized direction could have functioned as well as it has without these pervasive, built-in shock absorbers and flexible linkages. I recall the words of a disillusioned young Russian engineer who, while vacationing in Yalta some eight years ago, struck up a brief acquaintance with me. "You know what communism means?" he asked me. "Communism means," he said without waiting for an answer, "that if you have enough money, you can buy whatever you want." And there was the collective farm manager whom I asked about planning in agriculture. "Of course, there are agricultural plans," he replied. "But," he added, "they depend on the weather."

LET US TURN TO another widespread misconception about Soviet planning. Textbooks often describe Soviet economic programs, as if they were a series of boxes within boxes. According to this view the first box to be built is the grandest one of all: the long-range plan, formerly for five years and now for seven. Even this box is said to have its general contours determined by a fifteen or twenty-year plan. Once the long-range plan is constructed, the only problem remaining, we are told, is to fit the smaller boxes inside it, one for each successively smaller time period. The actual schedules of day-to-day activity—the quarterly and monthly plans—are viewed as miniatures of the grander scheme.

This all sounds fine, and it would make sense except for one troublesome detail: the system just does not happen to work this way. Western scholars in general have merely repeated in their writings what they have read in Soviet textbooks. Until very recently, they have not studied in depth, using the most primary sources available, how the system actually works.[2]

THE LONG-RANGE PLAN is a hazy vision of things it would be nice to have. It sets forth, for a limited number of key items, targets to keep one's eye on. In other words, it gives something to shoot at and shout about — something concrete that the populace and economic agencies can be exhorted to attain. In no other important sense can it be considered a blueprint of the economic program for the intervening years. It does not attempt, for instance, to set a time schedule of achievements.

Now, consider two additional things: first, goals for the future grow out of experience of the past; and, second, it takes time to prepare reports on accomplishments and prospects. The result is that a goodly portion of the period being planned for is eaten away by preparation of plans. It is not unusual for a long-range plan to be published as late as a year after the period has started.

What, then, keeps things going in the meantime? The technical answer is current plans, on an annual, quarterly, and monthly basis. But these plans obviously have to be drawn up before there is a long-range plan of which they are supposed to be a carefully fitted part. And this is not the end: current plans also take time to draw up. The first quarter may be over before the annual plan is ready, the first month before the quarterly plan is ready, and so on. By that time, what has actually taken place is

[2] In fact, to my knowledge the only scholar to devote himself in earnest to this task is Eugene Zaleski of the National Center of Scientific Research in France. To anyone who wants to know the true mechanics of the Soviet planning process, I strongly commend Zaleski's treatise *Planification de la croissance et fluctuations économiques en U.R.S.S.*, a work to appear in three volumes. The first volume was published in French in 1962, and an English translation is now in press. I will try here merely to sketch, in boldest outline, the basic characteristics of the process—at least, as I understand it.

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likely to be rather different from what has emerged as the plan. So the plan has to be revised to correspond with actual performance, and the process repeats itself. Through this constant readjustment of current plans to achievements, plans and performance converge in the course of the year. No wonder *Pravda* can publish such high percentages of plan fulfillment at the end of each year. The plan referred to is, of course, the final revised version.

Similiarly, in the course of either a short or a long period, plans can be attained—if this should remain an overriding objective—by the rather simple expedient of letting things slide in those large areas where no precise goals are set, or where the goals have a relatively low priority. There are plenty of built-in shock absorbers—or residual claimants, if you will—to dampen the blows of miscalculation. If this does not work, there always remains the expedient of throwing the whole plan away and starting over, as was done, for example, in 1957 and 1958. The question to ask, of course, is: Which is chicken and which is egg? Does performance derive from plan or plan from performance? The answer is that the relation goes both ways, though it is much stronger, in my opinion, from performance to plan than from plan to performance.

THE CRITICAL ELEMENT of muddling through can be shown in another way. Let us ask the question: What are the agencies that draw up plans, make basic economic decisions, and run things? As far as planning is concerned, the name Gosplan—State Planning Agency—immediately pops to mind: but one grows dizzy tracing out the shifting assignments and personnel of this agency in the postwar period alone. The terms of reference for this agency were changed no fewer than eight times between 1945 and 1964, almost once every two years.

Let me illustrate. In 1945 Gosplan had four major tasks: (1) planning of supplies, (2) planning on a current basis, (3) planning on a longe-range basis, and (4) compiling and processing statistics. The planning of supplies was withdrawn in 1946, processing of statistics in 1947. In 1953, planning of supplies was reassigned to Gosplan, only to be withdrawn two years later along with current planning. At this low point in 1955 and 1956, Gosplan was responsible for long-range planning alone, but in 1957, both planning of supplies and current planning were returned to its province. Three years later, it was relieved of its duties in long-range planning and restricted to planning of supplies and current planning. After another two years, its role was precisely reversed: It was made responsible solely for long-range planning. Finally, in 1964 its duties were expanded to encompass part but not all of current planning. There has, of course, been rather more stability in the decision-making nexus, essentially the Presidium of the Communist Party and of the Council of Ministries. Here important shake-ups have occurred only four times. At the level of actual administration, however, there has been vacillation back and forth between territorial and functional principles of organization since 1957, and no equilibrium arrangement is in sight. This is to say nothing of the frequent reorganizations of ministries, state committees, and the like, and the c o n s t a n t reshuffling of personnel.

Let me try to disarm my critics in advance by admitting that I have exaggerated elements of disorder in the Soviet system to make a point. Make due allowance, if you will, for this exaggeration. Is it even so possible to visualize Soviet planning as a process with dominant order, purposes, and continuity? I think not. Let us describe it for what it is: a set of institutions that has arisen out of an historical process of trial and error and survived the various tests along the way. These institutions make the economy go, sometimes reasonably well and sometimes quite poorly. Beneath everything there is the elemental force of momentum, which carries the economy forward from one day to the next whether plans have been properly attended to or not. Then, also, there are the many loose and flexible links that allow bending without breaking.

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THIS IS FAR FROM THE picture conjured up by loose talk about theories of central planning. There is no command headquarters in the Soviet economy where brilliant scholar-leaders are solving a horde of simultaneous equations, pausing intermittently to issue the orders that mathematical solutions say will optimize something or other. Nor is there a simple mechanism whereby these orders are transmitted or carried out. If I may now conclude where I began, I would stress again the mischief of romanticizing. If they had faced the facts in the first place, would the intellectuals of our society have fallen down so badly in their job of guiding public understanding of the Soviet economy? Perhaps so. But at least they would have an honorable excuse.

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Collectivism in Social Theory

EDWIN HARWOOD

There is no scientific sense whatever in creating for oneself some metaphysical entity to be called "The Common Good" and a not less metaphysical "State" that, sailing high on the clouds and exempt from and above human struggles and group interests, worships at the shrine of that Common Good.

—Joseph A. Schumpeter [1]

THE BELIEF THAT THE natural law framework of society is essentially corporative, that society requires a hierarchy of enlightened leadership with its most important social institutions receiving their legitimacy from a common ideological core and their operating directives from a central political directorate, has tended to unite social democrats, fascists, and even, it would seem, some religiously inspired neo-traditionalist thinkers. In the view of these, a government equipped with sufficient powers over human and material resources should be able to achieve a maximum of rationality and morality in society; and market-capitalism, which produces a division of political and economic powers, leads to the deterioration of a moral society.

It is too often forgotten that many liberal bourgeois social thinkers who were not socialists themselves have contributed to this critique of capitalism, partly as a result of their acceptance of that genre of social metaphysics alluded to above. In the case of the French sociological school, an essentially moral critique of capitalist industrial society was abetted by social scientific research and reinterpretation. Aiming to correct basic theoretical flaws in the atomistic-utilitarian conception of human action and motivation, these outwardly liberal thinkers emphasized the coercive and regulatory functions of all social organization. They argued that it was necessary to recognize the importance of moral and cultural constraints in human action. As a member of society, man regulates his action in accordance with social values and tempers his hedonism with moral and religious considerations; in any case, his felicific calculus is as much the product of cultural tradition as it is of a basic schedule of biologically fixed needs.

This attack on atomistic utilitarianism (the psychological-methodological basis of English political economy and of its radical off-shoot, Marxism), received its major impetus from the French school of sociology, from men like Saint-Simon and Comte at an earlier period, and later from Durkheim and Mauss.[2]

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[1] J. A. Schumpeter, *"The Communist Manifesto* in Sociology and Economics," *The Journal of Political Economy*, LVII (June 1949), 208.

[2] A good critique of the wholistic presuppositions of the French school of sociology can be found in F. A. Hayek, *The Counter-Revolution of Science* (New York: The Free Press of Glencoe, 1964).

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It should be noted that while the French sociologists were hostile to capitalism and suspected that it was the chief cause of industrial civilization's presumed moral anarchy, the French critique of utilitarian theory did not derive from their ideological principles, but rather it rested on the accepted canons of scientific investigation alone. On the other hand, it is clear that if a good case could be made for theories which stressed the *social* determinants of human action and which asserted that man's nature is nothing if not social, then societies which appear consistent with the utilitarian analysis would be more likely to appear unnatural; that is, historical aberrations to be corrected by a generous corporative impulse. Hence, there is indeed an ideological bias in the early French sociological theorizing.[3] In the writings of Comte, Mauss, and Durkheim one finds many concrete recommendations for a corporative social order, and they attempted to support these recommendations with their scientific studies.[4]

AMERICAN SOCIOLOGY of the 1930's manifests a strong imprint of French concepts and the anti-capitalist bias discussed above. This may have been understandable in view of the solid empirical contributions of Durkheim and his students; but the task of carrying forward their program of research on the industrial order and its disabilities extended to more than just scientific considerations. It included, in addition, adapting the French assault against "chaotic capitalism" to the American social terrain of the 1930's—admittedly a time which was not exactly propitious to theories favorable to capitalism, especially among social scientists not trained in economics. The separation of the moral and political order of society on the one hand from the operations of the market on the other, a separation which is never complete even in advanced capitalist societies, was one of the "natural aberrations" which the French fulminated against. This theme was soon taken up by a group of American sociologists and social-anthropologists, some of them men of indisputably great stature, like Elton Mayo and W. Lloyd Warner. In their work one finds the same admixture of political critiques with scientific explanation. Both of these writers write eloquently about the need for society to re-integrate itself in the interest of all contending factions. Their recommendations for a more rigid and unified hierarchy, and for a greater coordination of economic interest groups by political institutions is consonant with the corporative conception outlined above;[5] but if social peace and quiet are such vital needs, why not recommend the proscription of those political freedoms and that type of parliamentary squabbling and naughtiness which—at least in the view of right- and left-wing authoritarians—only serve to magnify and exacerbate rather than resolve existing tensions and social antagonisms! Why not leave off with the terminological trepidation. Call it what it properly is: a fascist solution.

What had been with the French and certain of these American social scientists a critique of existing capitalist society and an argument for a corporative social order, one in which the economic sector of society would again be put to a moral harness, became transformed into a highly general theory of social organization.

INSTRUMENTAL IN THIS development was the work of Talcott Parsons. In a brilliant early work, *The Structure of Social Action*, Parsons continued the dialogue with utilitarian individualist thought which the French had spearheaded. Ten year later, in

[3] A. Gerschenkron has given an interesting economic explanation of the attraction which corporative and mildly socialistic ideological currents had in France, even among the entrepreneurial and financial bourgeoise. "Economic Backwardness in Historical Perspective," in B. Hoselitz, ed., *The Progress of Underdeveloped Areas* (Chicago: University of Chicago Press, 1952).

[4] Cf. Emile Durkheim, "Preface to the 2nd edition," *The Division of Labor in Society* (New York: The Free Press of Glencoe, 1964).

[5] E. Mayo, *The Human Problems of an Industrial Civilization* (New York: The Macmillan Co., 1933), Chs. 6-8; W. L. Warner and J. O. Low, *The Social System of the Modern Factory* (New Haven: Yale University Press, 1951), pp. 181-196.

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The Social System, he developed a distinctive theory of his own. Emphasis in this theory, which was not meant to be a theory of any one type of social system but of all social systems, was given to the postulate of shared values, of norms held in common by the inhabitants of a political community. Basic social antagonisms based on class and political divisions were secondary phenomena which had to be explained but were not of central relevance. What is the difference here between Parsons' extrapolation of French sociological thought and what the French themselves believed? Parsons' theory does not allow for distinctions between types of social systems, distinctions which are essential to a proper understanding of different societies at different stages of historical development. There was, for example, no attempt to distinguish between actual ongoing corporate states on the one hand — socialist and feudalist societies are similar in terms of the heavy-handed political centralization and statist natural law premises they advance—and capitalist society with its institutionalized independence of economy from polity. The French recognition of the fact that capitalist society differed from what they conceived of as a more natural social order was lost sight of in the emerging general theory developed by Parsons.

Parsons wanted to talk about society in general. This led him to the kind of pitfalls which I intend to discuss now. We shall consider one application of his general theory, his explanation of social stratification: the way in which men come to differ in terms of income and prestige. This theory of stratification is erroneous because it derives from a wholistic conception of social life and such a conception, I argue, is not at all adequate to the task of describing capitalist societies.

Parsons assumes that the reward and prestige which a given occupation garners depend upon "society's" evaluation of the contribution of that occupation to the survival needs of the society. Occupations felt to be vital to the continuation of society will receive much more prestige and income than occupations which are not so vital. Sufficient consensus exists, in Parsons' view, to insure that the income of a position will not be discrepant with its social value. A moral order being common to all men within the social system, such consensus about the relative ranking of services and occupations would never be problematic; but if a discrepancy should occur, if occupations of great importance were to receive less income than would be warranted by their importance, serious strains would be engendered. Some agency would have to intervene to insure that the important occupations received their due share of the economic distribution.[6]

That is the theory in a nutshell. It assumes that social systems have stable ideological cores from which unambiguous rankings of different occupations can be derived. It assumes that men come to a uniform evaluation of the survival needs of their societies—indeed, that societal survival is foremost in their minds when it comes to ranking jobs and allocating material rewards. It assumes, further, that situations in which a discrepancy exists, as for example in the case of jobs or trades which have high income but are morally reprehensible, can be considered abnormal and productive of social strain. Then, of course, they must be "corrected." Is it not possible, however, in contrast to Professor Parsons' view, to think of a market which does not follow the moral guidelines of some social elite, but allocates income to those who best provide for the wants of the mass of consumers?

These individuals may not measure up to the standards of the cultural elitists. They may actually provide services and goods felt to be petty and trivial; but the financial power of the consuming public is a basically democratic power, and it lies at the very roots of those discrepancies between the presumed moral attributes of an occupation and that occupation's income which are more the rule than the exception in healthy capitalist states. It is often only

[6] T. Parsons, "A Revised Analytical Approach to the Theory of Social Stratification," in R. Bendix and S. M. Lipset, eds., *Class, Status and Power* (New York: The Free Press of Glencoe, 1963), pp. 92-129.

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the elitist intellectuals who must perceive a harmony of social functions where harmony does not in fact exist; and it is usually the intellectuals and the unsuccessful who feel that things moral and material must be brought back "into line."

IN COLLECTIVIST societies a general consensus regarding the relative worth of different social functions, if it does not actually exist among the populace at large, can indeed be enforced by the intellectual, military, or feudal elites. Only this type of society, approximated by contemporary socialist states and feudalist regimes, can attempt to coerce the flow of income into channels which maintain consistency between the income and the presumed moral worth of a given occupation or social position. It is well known that a market freely organized can be frustrated in its effective allocation on the basis of demand, and thus the central administrative apparatus of the state can assign wages and salaries on the basis of criteria irrelevant to economic efficiency. In feudal and socialist regimes, merchants, entrepreneurs, tradesmen, and kindred social types of the third estate usually do not receive the material rewards that they would otherwise receive for their services in a democratic capitalist society.

Since a free market would have provided these social types with income felt to be inappropriate to the economic worth of their social functions, kings and comrades must have recourse to measures which will bring income into line with social prestige or what *they* feel to be society's needs. Heavy taxation continually enforced, as in Bourbon France, or capriciously, as in the England of Charles I, sumptuary legislation—now, with changing fashions, referred to as "rationing"—and downright expropriation are among the measures which a social elite can employ to make certain that income will be allocated on the basis of political or "moral" criteria. I must confess that the socialist elites have carried out their task in this matter with much greater efficiency than the former Western monarchs and feudal princes; but I think that in terms of the ideal-typical distinctions I am trying to draw in this paper, it is safe to contrast feudal and socialist social systems on the one hand with capitalist societies on the other.

Professor Parsons and those sociologists who have followed him in this theory of social stratification never made these crucial distinctions between capitalist societies on the one hand, and socialist and feudal regimes on the other. They are not advocating a return of control over economic operations to a social and political elite—in short, a transformation of capitalist society into a socialist order—because they believe that there are no crucial distinctions. I am not saying that they are not personally aware of important differences. I am arguing that their explanation of social stratification does not take these differences into account.

I CANNOT DEAL WITH all of the underlying assumptions in this theory, in particular, with the assumption that society has a set of survival needs which are clear to most men in society, and which, when clearly understood, give rise to a uniform set of occupational evaluations. I leave this assumption for more versatile metaphysicians than myself to grapple with. The belief, however, that widespread social consensus exists with respect to the value of different economic services and social roles, that men not only agree upon the relative ranking of different social functions but in addition, experience strain and distress when they perceive how occupations and other social functions of high prestige receive modest incomes, strikes me as being contrary not only to common sense but also to historical experience. Consider the social and political upheaval in seventeenth century England. The enclosure movement which developed in the wake of the Tudor Reformation, as a response to the sale of monastery lands to enterprising nobles and burghers, created concern among the highest ruling elements of the society, Church and Crown.

The greater efficiency of the monas-

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tery lands, after having been sold to enterprising private individuals, increased the pressure on other landholders to raise rents and rationalize agricultural practices. There were other factors at work here, among them the decline in the purchasing power of the coinage, while rents in many cases had remained unchanged since feudal times. Nobles and gentry responded by jacking up rents, and by turning a large part of their lands into pasture for the production of wool. The lower ranks of the peasantry, the copyholders in particular, had a difficult time defending their rights to their private plots as well as to the commons in manor courts run by the very nobles and gentry they were up against. The Crown was disturbed by the growing social dislocations in the countryside. The rationalization of social relations between peasant and manor brought about by the commercialization of land was felt to undermine the power of the Crown—although Henry's sale of Church lands and the campaign against the private feudal armies of the nobility were themselves factors in the decline of manorial paternalism.[7]

In the end, of course, the anti-capitalist measures of Laud, the High Commission, and Charles' Privy Council were put to the block as squarely as was the Archbishop's head. The combined triumph of agricultural capitalism in alliance with urban mercantile capitalism meant far more than just the end of a corporate feudal society. It meant, in addition, the end of a coerced consensus on the relative moral worth and prestige of different social functions. It meant that low-born bourgeois would obtain the full value of their economic contributions. They would also have more wealth than many of the high-born, and in time, more power too. Parliament, in denying the Crown's right to impose arbitrary taxes, in particular, to sell and grant exclusive franchises which interferred with the efficiency of the market system, abolished in the process the use of political power for the control of economic life, for the diverting of the flow of goods and income away from the strata to which they would normally be destined under free market conditions. The sundering of the polity from the market meant—and this is most important for understanding the inadequacy of sociological theories of stratification like Parsons'—that the prestige which some elite judges to be merited by a social function will not necessarily correspond to the income received by that function in a capitalist society. There is also an absence of consensus about the relative importance of different social functions in capitalist society. Leftist intellectuals do not think as highly of businessmen as the latter do of themselves; ward-heelers are thought very highly of by lower-class, ghettoized immigrants, but that doesn't assure them entry into clubs and upper-class salons.

In seventeenth century England, on the other hand, the nobility and court had sufficient social and political resilience to continue to determine what style of life and family background constituted high social worth, but they lost the ability to insure that the stream of goods and material comforts would correspond to this other dimension of social class. Capitalism's triumph was not postponed because it had a falling out with some presumed "common-value" system which had assured consensus on the relative worth of different social functions. It triumphed because certain strata, fortunately aided by an aristocratic element with strong commercial interests, the Tory Radicals of their age, took the political initiative in seeing that the market system worked without Stuart political and religious fetters. England attained this goal much earlier because its bourgeoisie was much more advanced. It was favored over France and the other continental countries for a number of other reasons which John U. Nef has dealt with at length in his *Industry and Government in France and England: 1540-1640.* That work is among the best I know for gaining an understanding of why parliamentary democracy and capitalism triumphed so early in England.

[7] See R. H. Tawney, *The Agrarian Problem in the 16th Century* (New York: Longmans, Green and Company, 1918); C. Hill, *The Century of Revolution: 1603-1714* (Edinburgh: Thomas Nelson and Sons, Ltd., 1962).

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WE HAVE DEALT AT some length with the myth of a "common-value" system, at least as applied to capitalist social systems, and I think that in the process we have learned why collectivist sociological theories apply to collectivist societies and not to the more pluralistic democratic capitalist system. If one considers, for example, R. H. Tawney's political tracts, *Equality* and *The Acquisitive Society*, or Karl Polanyi's *The Great Transformation*, one finds a quite stubborn awareness of the fact that capitalist civilization is neither a moral unity with a common ideological core nor a system that assures that income and prestige will follow what these anti-capitalist intellectuals consider to be their proper channels. These men are *advocating* a unified, morally integrated society, one in which a centralized political directorate would have the power to determine the moral value and "functional contribution" of various occupations and services. Although I heartily disagree with the ideas of these two thinkers, I must confess that they have a more acute understanding of the nature of social class and stratification in capitalist society than non-socialist social scientists such as Parsons and his followers. That the general theory of social stratification advances conceptions unsuited to the contours of capitalism is most clearly revealed in the statement made by two of Parsons' followers regarding the dilemma of private property and inherited wealth:

> . . . as social differentiation becomes highly advanced and yet the institution of inheritance persists, the phenomenon of pure ownership emerges. [By this I assume they mean ownership without unsubtly obvious functions.] In such a case it is difficult to prove that the position is functionally important or that the scarcity involved is anything other than extrinsic or accidental. It is for this reason, doubtless, that the institution of private property in productive goods becomes more subject to criticism as social development proceeds towards industrialization.[8]

This seems to be a striking admission. Having noted the obdurate legal fact of inherited wealth, Davis and Moore are arguing that with time people will come to reject the right of private ownership of productive firms and will insist that such material reserves be re-allocated on the basis of some more valid criterion of social contribution. This may or may not be an accurate description of current historical tendencies. It is clearly an admission of the inadequacy of their theory to account for the dynamics of class and stratification in capitalist states. What they are saying really is that with time, social reality will "catch up" with the propositions of their theory, the day when some Ministry of the Moral Order will insure that large blocs of wealth do not go into the hands of rentiers—Captains of Non-industry, if I may pervert somewhat a phrase coined by David Riesman; but will go to those who make the most important contributions to that somewhat mysterious and elusive end, societal survival.

These men pretend not to advocate but only to describe what is. The advocates of a collectivist society, however, are not only honest advocates but clearly cognizant of the important differences between the dynamics of class and stratification under capitalism on the one hand, and the mechanisms which operate in collectivist states on the other. I do not care for the collectivist goals of the French sociologists or the Marxian mecca of orthodox socialism; but I am concerned to see that the distinction between corporative and capitalist societies be fully understood for what it is, rather than being submerged by a general theory which admits of no important differences.

For this reason, I tend to feel that the older political polemics which recognize these differences have more scientific relevance and analytic clarity than altogether inapplicable abstractions about society in general. The latter have attained the orthodox scientific goal of universality with the result that we understand not more but less about the functioning of modern western societies.

[8] K. Davis and W. E. Moore, "Some Principles of Stratification," *American Sociological Review*, X (April 1945), 242-49. W. L. Warner's *Social Class in America* develops a similar theory of stratification. (New York: Stratford Press, Inc., 1949), p. 8.

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Justice, "Needs," and Charity

ROBERT L. CUNNINGHAM

And for bonnie Annie Laurie
I'd lay me down and dee
(William Douglas, *Annie Laurie*)

Each heart recalled a different name
But all sang "Annie Laurie"
(Bayard Taylor)

DEFINITIONS ARE generally regarded as the best and most effective means of ensuring that our use of words is exact and clear. The advantages of following the recommendation: Define your terms! are seldom questioned; but to define a term like "justice," a word that combines a strong eulogistic flavor with a wide ambiguity of meaning, is to engage in a dangerous occupation, for one is implicitly engaged in recommending an ideal, and thus any definition given is inevitably persuasive. There may be no agreement on the application of "justice," no agreement on the criteria which ought to determine its use, there may be an inconsistency of application which reflects confusion of thought, but there will be unquestioning adherence to the proposition that *justice* is a good thing. When it proves possible to shift the application of a term like "justice" (or "democracy" or "liberty" or "socialism") one may very well have won an important battle, for, implicitly, interests are thus redirected, values legislated in or out of existence, and the range of relevant "explanatory" information changed.

That such a shift in the application of "justice" has occurred is not really in doubt. "Justice" now usually refers not so much to a moral habit some individuals have and others, more or less, lack, but to a sort of institutional arrangement which it is the goal of political programs to achieve. Part of the load of favorable connotations formerly carried by "charity" (now redefined and carrying somewhat dyslogistic overtones), "love," and "mercy" have been shifted to "justice." Commutative justice is "out"; distributive or social justice is "in." "Social justice" and "universal prosperity" or "happiness" are often used coextensively.

I shall attempt to show that if this shift has occurred, it has considerable importance for men of intelligence and good will: for it is an analytical proposition that men of good will and intelligence will strive for *justice*. A few centuries ago, a somewhat analogous shift occurred—a shift in the meaning of "selfish" which led men to accept as true

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the proposition: "All action is really selfish"—with the result that many were seduced from attending to their duties; fortunately a Bishop Butler was then available to make the appropriate distinctions and to show that the proposition was true only when "selfish" is used in a trivial and uninteresting sense.

JUSTICE HAS traditionally been considered to be a necessary modality of government action. If one says, "that's unjust," one has implicity said, "government has no business doing that"; and if one can justifiably say, "doing that will promote or foster justice," one has given a good (though not necessarily a sufficient) reason for saying, "government ought to do that." Now, one way of broadening the legitimate range of government activity is to broaden the scope of "justice," and it does appear true that certain sorts of activity hitherto attached to "charity" (love, sympathy, affability, kindliness, spontaneous likings, friendliness, friendship) are now attributed to "justice"—usually *social* justice (the very *best* things these days are characterized as "social"). There are certain advantages to this broadening of "justice." "Justice" connotes rationality, austerity, rigor, and admits of being pressed into fixed formulae and codes. The virtue of justice counteracts the crude egoism of the individual, but only in a minimal way, for it demands that all men be treated equally—and there are only a limited number of ways in which men *are* equal. "Charity," and "mercy" even more so, connotes sentiment, softness, the glorification of instincts and whims, non-rationality. There is this difference too between charity and justice: Justice calls for treating *A* and *B* equally, whether *A* is a friend and *B* an enemy, or *A* one's mother and *B* one's mother-in-law. "A judge who respects the person is unjust." Justice calls for the methodological exclusion of charity; but charity does not call for treating *A* and *B* equally. We love what is like ourselves and since some are more like us than others are, we love them more than we love the others. There are gradations of love or charity, but not of justice: We can love one more than we love another, but cannot treat one more justly than we treat another. As Joseph Pieper has written, "If love says: 'Whatever belongs to me should belong to the one I love, too,' justice proclaims: 'To each his own.' "[1]

When strict (commutative) justice is called for by the situation, it must *never* be overruled or replaced by charity. If I borrow fifty cents from a friend, promising to repay fifty cents the next day, it would be unjust of me not to repay what I owe when it is due: to refuse to do so (when able) is a paradigm of injustice. It would also be morally unreasonable to strike an attitude of generosity and, when the money is due, say: "Here, take the fifty cents: you need it more than I do"; or out of "charity" to say: "I won't keep the fifty cents, nor will I give it to you; I'll give it to some poor person who needs it more than either of us." Nor is it true that the claim to justice and to mercy are of equal weight. "There is," James Martineau says, "a vast interval between the obligation which I have openly incurred in the face of my neighbor's conscience and that which is only privately revealed to my own."[2] But if charity be brought under the aegis of social justice, then it may well be that some will argue that social justice ought to overrule commutative justice. The exquisite charity of the saint scarcely permits his justice—hardly different from that of the honest tradesman —to appear; and similarly, scarcely will social justice allow commutative justice to appear.

Notice also another limitation on the rectification of "justice" to designate what was traditionally designated by "charity." Ordinary language is a few paces behind the verbal redistricting that has gone on. "He needs it more than I" justifies giving another charity, but hardly justice; and it makes sense to say, "I owe you $50 for the suit I got from you," but hardly any sense to say, "I (we) *owe* you $50 because you are unemployed."

[1] *Justice* (New York: Pantheon Books, 1955), p. 58.

[2] *Types of Ethical Theory* (New York: Macmillan, 1886), II, p. 122.

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WHY NOT, HOWEVER, broaden the designation of "just" to include much of what was hitherto included under "charitable"? If government will now promote charity, mercy, love—why not? For a very simple reason, indeed: because government has no goods of its own to distribute in charity and mercy. What goods it has it obtained from others who were (implicitly) threatened with violence if they did not pay what they "owe." There is all the difference in the world between helping the poor by a free gift, and being ready to take away from the rich what he would otherwise unjustly—by the criteria of social justice—retain and then giving this to the poor. "Christ's bidding to the rich is most imperative. It is necessary to stress that while He urged the rich young man to 'distribute unto the poor,' He did not tell the poor to take upon themselves to redistribute by taxation the rich young man's wealth. While the moral value of the first process is evident, that of the second is not."[3] Though the (individual) moral duty of charity logically presupposes that of strict justice—since even when exercising charity to the highest degree, one can give only what is one's own—if government is acting as a charitable agent, its charity can now be seen as demanded by social justice.

One tends to be struck, over and over again, with the unreal, not-in-this-world atmosphere in which many philosophers tend to discuss justice. The problems that seem important to solve have to do with *distribution*—there is no discussion of *costs*. The underlying model seems to be one in which there exists a mountain of goods to which individuals come with claims of various sorts, and government's job, with the advice and consent of the philosopher, is to judge which and how many of these goods are to be distributed to *A*, to *B*, to *C*. In such a world the only problem is that of *a just distribution* — how this mountain of goods got there is irrelevant, or at least uninteresting; for this model does not even permit the raising of the issue of whether or not these goods already belong to someone, whether it is private property that is being (re-) distributed. W. K. Frankena, for example, asks us to consider the notion of comparative allotment as central to distributive justice. Suppose, he says, "society" is "alloting" goods to people. Then society may be justified in "giving *C* a banjo, *D* a guitar, and *E* a skin-diving outfit."[4] Note well the paternalistic model: Surely these are the gifts a father would give his children, say at Christmas; and note that the question of how it is that the father raises the money to pay for these goods does not arise. Nor does the question of how it is that one knows just what is good for each child arise; but is it appropriate to use the actions of a wealthy and wise father as a model for government action?

MERCY IS AN EVEN more unseemly sort of virtue than charity in our modern world. The man who practices it places himself above his neighbor, who is put in the position of receiving alms, in the position of dependence on an overlord. Can anything less democratic be imagined? Nor is mercy a *radical* virtue: the merciful man tends to deal with symptoms rather than root-causes, and is guilty, as Aurel Kolnai puts it, of "wishing to relieve the pain of the incurably sick instead of eliminating sickness from the world." One can see that if the "mercy of the rich and powerful" can be eliminated from the world—by being made unnecessary as a result of the substitution of systematic social justice—the world will have gained in objectivity, rationality, and human dignity.

Notice also another advantage of broadening the extension of "justice": those who receive what they "need" are no longer put in the position of one who receives charity or mercy, but of one who receives *his just due*. "Means tests" are out, for they were appropriate only when a man could not have been said to "deserve" help. It was argued traditionally that the fact that each person is not due the fulfillment of his

[3] Bertrand de Jouvenal, *The Ethics of Redistribution* (Cambridge: Cambridge University Press, 1951), p. 14.

[4] "The Concept of Social Justice," in R. B. Brandt, ed., *Social Justice* (Engelwood Cliffs, N.J.: Prentice-Hall, 1962), p. 7.

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"needs" follows directly from the proposition that "neither can it be affirmed *a priori* that there exists in the external world a sufficiency of goods for the needs of all, nor can it be affirmed *a priori* that one's needs constitute a sufficient title to claim from others what belongs to them."[5] Now the "logic" of the word "need" is interesting. If I say "I need *X*," there is, by contrast with my saying "I want *Y*," a connotation of constancy, absoluteness, definiteness, a suggestion that what I say I need is almost physiologically demanded, and a suggestion that costs are irrelevant; the things I "need" are things that surely benefit me, but what I "want" may not do so. I can compare, for instance, my wife's telling me, "*I want* a new rug" with her saying, "*We need* a new rug." The connection between "*X needs Y*" and "*X* (morally) ought to have *Y*," though not an entailment, is not purely contingent; but it makes sense to say "*X wants Y*, but maybe he (morally) ought not to have it." In English we speak not of urgent, critical, crying, vital, or essential *wants* —but of urgent, critical, crying, vital, or essential *needs* (and this is so even though the noun "want" connotes the stability of "need"—a connotation not at all present in the use of the verb "want"). To speak then of an economy as potentially capable of satisfying all our "needs" is to imply that there is a constant and unchanging set of goods and services called "our needs" and also that a finite amount of wealth will enable us to satisfy these needs. But as economists point out over and over again, the notion of "need" is not an analytically useful one.

We are inclined to *say* that we *need* too many sorts of things, from more protein in our diet or a longer vacation, to a new car, more highways, more and better teachers, more missiles, more water in California. This is to say that "need," like "want," is a vague word, *connoting* constancy and definiteness but *denoting*, in many of its uses, nothing more definite than "want." "I need" is used persuasively to say "I want." When someone says: "I (or more usual, *we*) need *X*," one should, I think, follow the suggestion made by Alchian and Allen and respond: "You say you *need X, but in order to achieve what? At what cost of other goods or 'needs'? And at whose cost?*"[6] These questions are obviously relevant when someone says "*I want X*"; they are no less relevant when someone says "*We need X*." The only practical way, of course, of distinguishing "wants" and "needs" is to give some authority the power to define what are to be counted as "needs" and what are to be counted only as "wants"—but this course of action would have some rather obviously undesirable consequences which need not be discussed here.

D. D. RAPHAEL ARGUES that unequal treatment *can* be justicized on the basis of different needs: "We think it right to make special provision for those affected by special needs, through disability, such as mental or physical weakness, or through the slings and arrows of outrageous fortune. . . . Here, it would seem, we go *against* nature, and think ourselves justified in doing so."[7] Nonetheless, would we not find it strange to *say*: "He's a *just* man because he gave more attention to the poorer students than to the average students"; or to say: "He's a *just* man because he helped the child the bigger boys knocked down." It may be *right* to give greater attention to poorer students, or to help the injured child—but is it *just* (that is do we now *say* that it is "just")? It may be *right* "to meet these special needs . . . [by] an attempt to bring such people up to the normal level of satisfactions, or as near to it as we can"—but is it *just* to spend more on some than on others? Mortimer Adler once argued that if it takes two or even three times as much money to educate the less intelligent to an acceptable norm, the money should be spent. Per-

[5] Gustavo del Vecchio, *Justice* (New York: Aldine, 1952), p. 142.

[6] *University Economics* (Belmont, Calif.: Wadsworth, 1964), p. 72.

[7] "Justice and Liberty," *Proceedings of the Aristotelian Society, 1950-51*, London, LI, reprinted in M. Minitz, ed., *Modern Introduction to Ethics* (Urbana, Ill.: University of Illinois Press, 1958), p. 468.

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haps; for maybe there are good (possibly utilitarian) reasons for doing so — but are they justicizing reasons? It may be right for a father to spend a great deal of money to send a crippled child to special schools, but if the other children question the justice (or "fairness") of this procedure, can the father give good justicizing reasons? Though charity never overrules justice, one may—and perhaps the crippled boy's siblings morally ought to—give up that to which one is justly entitled; but ought government to use the threat of coercion to achieve the same goal?

If a man asks for a dollar for a bed for the night, few would say I ought to give it *in justice;* but if that man votes himself a dollar from me, do I *now* owe it to him in justice? It is hard to see that the fact that he now has the government at his back to enforce his "claim" makes all the difference between a request for mercy and a demand for justice.

There may be a sense in which college professors "deserve" higher pay (everyone might be better off if abler men were attracted to teaching, etc.); it might be right to "work for" higher pay; but is it *unjust* that people have not chosen to spend a greater amount of their wealth on education?

One may well be able to defend the proposition that "private property has a social function"; but is this appropriately interpreted to mean that if you have more property than I, you ought *in justice* to give me some? This is egalitarianism with a vengeance and, as Kolnai says, "the trouble with the true egalitarian is precisely that he is unable to see a fat person beside a lean one without being tempted to assume that the former must have fattened on the flesh and blood of the latter."[8]

It is conceivable that robbing Peter to pay Paul (the model of the welfare state?) may sometimes, in marginal situations, be justified; but never justicized. It is a considerable step from "the pursuit of happiness" to a claim to happiness *rationed* out by a government which guarantees social justice—aside from the fact that here as in all other cases where scarce goods are rationed, the goods tend to disappear.

Is it not odd that people will "fight" to raise social security benefits with all the solemnity proper to the performance of a religious duty? One is reminded of the Marxist prophecy which "required from its disciples no other belief than that in the force of bodily appetites and yet at the same time satisfied their most extravagant hopes."[9] What used to be called "selfishness" is made out to be not only permissible but a moral duty, the motive power behind the achieving of world social justice. "The 'divine discontent' that makes me crave for three rooms instead of two and two radios instead of one is a revolutionary force which deserves not only to be acknowledged but venerated."[10] If striving after limited equality is justice, then striving after total equality is striving for the consummation of justice.

IT IS NOT, I THINK, irrelevant to note parenthetically that there is good reason to believe that when legislators respond to popular demand for "public services" solely on the basis of "needs" criteria, overinvestment tends to result. This is also the case when government provides "private" goods to individuals without the use of pricing. It is doubtless true, as Kolnai writes, that we may be ready to dispense with "the fine connoisseurship of delicious dukes if in compensation we are relieved from the presence in our midst of illiterates, uncared-for consumptives, and persons ignorant of the use of soap."[11] But the means we choose, whether "just" or not, often fail to achieve their goal. Milton Friedman has argued, successfully I think (*pace* Galbraith: "Public services have . . . a strong redistributional effect. And this effect is strongly in favor of those with lower incomes."[12]), that with the excep-

[8] "The Common Man," *Thomist,* XII (1949), 285.

[9] Michael Polanyi, *The Logic of Liberty* (Chicago: University of Chicago Press, 1951), p. 105.

[10] Kolnai, *op. cit.,* p. 303.

[11] *Ibid.,* p. 295.

[12] "Let Us Begin: An Invitation to Action on Poverty," *Harpers,* March, 1964, p. 24.

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tion of direct transfer payments to the poor, all types of social welfare measures have the effect of taxing the poor to help the rich.[13] This is to say that there is a net transfer from the poor to the rich when measures such as those making education "free" to the poor are passed (mainly at the higher, but even at lower, educational levels); freeways (not tollways) are built; "public housing" is provided (more housing than is built is first destroyed, and so the average cost of the housing available is raised); areas are "redeveloped"; "medicare" legislation is passed (the very poor are already well taken care of); "social security" is passed (benefits are, partly, paid for by a regressive tax); and legislation is passed to help farmers, only some of whom are poor (but raising the price of food for everyone else); or to help "senior citizens," only some of whom are poor; etc.

The way the poor are dealt with is reminiscent of the way wolf packs are dealt with by the Eskimos. They plant razor-sharp knives clasp down in the ice and rub the blades with a little seal blood. The wolves, attracted by the blood, lick the knives, cutting their tongues. They are greedily delighted by the seemingly unending supply of nourishing blood they can lick off the knives. They stand there licking until they drop in their tracks from the loss of their own blood, then freeze to death in the snow.

Gregory Vlastos argues that "since humanity has lived most of its life under conditions of general indigence, we can understand why it has been so slow to connect provision for special need with the notion of justice, and has so often made it a matter of charity; and why 'to each according to his need' did not become popularized as a precept of justice until the first giant increase in the productive resources. . . ."[14] But is this not a rather odd position? In the past, when we could not satisfy needs adequately, it was the function of *charity* (sympathy, pity, generosity) to provide help to the needy; today, when most people are not needy, charity is no longer called for, but we must *in justice* bring the few needy who remain up to par. When there are a great many needy people, pity them; when there are only a few who are not really so needy — in advanced countries, for in most of the world many people are still (biologically) needy — give them justice. Few would want to deny that with the passage of time sensitivity to the demands of justice can increase (or decrease), or that sensitive, pitying awareness of human misery can increase (or decrease). Yet is it not simply obfuscation (though persuasive) to confuse the two verbally, to say what was called for by "charity" on one day is called for by "justice" on another; and that the extent of remediable misery is sufficient to call for the verbal transmutation of "charity" into "justice." We must give *justice* to our poor fellow-Americans, but need give only charity to the rest of the world's poor.

Ceteris paribus, all of us would prefer a state of affairs where social rewards, privileges, wealth, power, and prestige were proportional to the individual's use of his talents. We would like to see reward proportioned to "merit," not only in heaven, but here and now on earth. What holds people back is the recognition that they lack divine knowledge and power (recalling the old saw of what would heaven be like if God sometimes put people in the wrong mansions?) Most political theorists also feared that some man or group of men might acquire the power to decide what another's status ought to be, and that therefore freedom would be diminished.

ALTHOUGH IN UTOPIA reward should correspond to merit, and not necessarily to performance (which may depend on luck), *we* cannot very well judge *merit.* We may, however, feel that there are ways to get an idea of *motivation;* and for anyone influenced by Kant, motivation may be thought to be the near-equivalent of merit. From this viewpoint, it appears that businessmen are inspired mainly by the profit-motive, when we should prefer them to be motivated by a desire to promote the "com-

[13] *Cf. New York Times Magazine,* October 11, 1964; *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), Chs. 11, 12.

[14] "Justice and Equality," in R. B. Brandt, ed., *op. cit.,* p. 42.

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mon good"; but since there is no logically necessary connection between performance and income, we can, by interfering with the market system, attempt to establish some sort of correlation between preferred motivation and high income.

This sort of thinking is, however, moralistic, and leads only to confusion between the end of the activity and the end of the actor. Yet certainly *what* is done should count for more than *why* something is done: a Torquemada does no less harm for being nobly motivated. Should we no longer interest ourselves in the finality of an activity but only in the finality of the agent, we shall find highly motivated activity driving out highly beneficial activity. "Let us stop talking about people's motives. I don't care what people's motives are. I want to know what they are doing and what the effects are, and which ones are good and which ones are bad. I don't care why you hold this office or why you run this business. It will always be true, I should think, that people will go into business to make money. What is wrong with that?"[15]

Is it not better to strive for less than "(re-) distributive justice"—namely, for visible and evident commutative justice which does not directly count the personal effort of a man's work but only the result—realizing that moral value, while the highest, is not the sole value, and is the least measurable by empirical methods. It is better to give up a dream for the perfectly just society—which, as a matter of fact, the unsuccessful would find more unbearable than now, when chance and fortune so clearly have enormous roles to play and they can blame luck rather than lack of merit for their condition. Given the climate of opinion about the very wealthy—whether based on envy or not—a man is unlikely to choose commerce and industry unless the material rewards are relatively great. The only way a "philistine" has of knowing whether his efforts have *any* merit is by his profit-and-loss account. If this standard of successful service is scorned, the function of the market in allocating resources to successful producers is destroyed. Running a department store well is not the noblest of all humanly befitting activities, a *bonum honestum*, and the best people know it. (The Greeks called such activity *banausic*—"the man at the stove."

The lower the possible "profits," the less the interest in putting one's economic life on the line. The losses are as great as ever, and speculative economic investment of the sort that, when successful, means great service to the consumer and so great wealth to the entrepreneur, is stillborn. How far we have departed from the attitudes reflected in Samuel Johnson's remark that "there are few ways in which a man can be more innocently employed than in getting money"! As long as it appears desirable to raise the general standard of living, if not for oneself then at least for one's fellows in one's own country and the rest of the world, one had better make sure that those who engage in productive pursuits are not deprived of sufficient material rewards to encourage them to continue their useful other-serving activity, even though whole-hearted moral approval cannot be given them. The envious man who for "moral" reasons refuses to pay the price asked for the services he demands ("How can *any* man be worth a million dollars a year?") will shortly find these services are unavailable. One must not forget, as Hayek reminds us, that in a sense all of us are striving to achieve the status of the "idle rich," those whose activities are not governed by desires for material gain.

What is true of the wealthy with respect to the poor is true also to wealthy nations *vis-à-vis* poorer nations: One may, by redistribution, kill the proverbial goose. Further, if it is "just" to *re*-distribute the "profits" of the wealthy to the poor in one's own country, is it not quite as "just" for people of poorer countries to claim that the goods of the wealthy nations ought to be redistributed among them? Is not "social justice" being violated in a world in which an American auto worker belongs to that two per cent of the earth's population whose income is highest?

[15] John Courtney Murray, *The Corporation and the Economy* (Santa Barbara, Calif.: 1959), p. 43.

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COMMUNICATION:

The 1964 Election

Rusher on Goldwater:

IT MAY BE USEFUL if I describe some of the considerations that motivated those who sought to draft Senator Goldwater, and who in the process seem to have annoyed Professor Rogge so vastly. ("Note on the Election" by Benjamin A. Rogge, *New Individualist Review,* vol. III, no. 4, Spring 1965).

First let me say that I agree with a large part of Professor Rogge's underlying thesis. It is perfectly true that America, in 1964, "was simply not yet prepared to accept the conservative position." Furthermore, I will cheerfully go the extra mile and concede that the probable outcome of the struggle was plainly foreseeable from the outset. One mild caveat here: No election is ever totally predictable, and it was always possible, even if only slightly so, that our expectations were unduly pessimistic, or that external events—the "deep crisis" mentioned by Professor Rogge—might arise to confound them. My own not terribly libertarian view was quoted in the November 1962 issue of *Foundation:* "there will inevitably come a time when the American people determine that world Communism must be destroyed. If that time comes before November of 1964, Goldwater will be elected. If it comes after 1964, he will be defeated."

Yet Professor Rogge seems to think he has the argument won if he can only manage to establish that Senator Goldwater was doomed to lose. He throws in a few unkind remarks about the excessive zeal of the Draft-Goldwater forces, and concludes with a ringing appeal to conservatives "not to try to win elections but to try to win converts."

This is sound enough as far as it goes, but I think it omits some important considerations. There is, first of all, the question of what obligation (if any) we owe to the democratic process. Granted that conservatives are a minority in this country, does it inexorably follow that they should not "fight the good fight, run the good race," in Bryan's hackneyed phrase? How, if conservatism is too delicate a bloom to be buffeted by the rough winds of the electoral process, are the American people even going to learn what it is, let alone be converted to it?

Beyond such considerations, and at a lower but by no means unimportant level, I urge Professor Rogge to consider the striking increase in the size, and the even more striking increase in the general articulation, of the conservative movement as a result of the Goldwater campaign. It will not, I think, be seriously denied that ten years ago there were far fewer conscious, committed conservatives in this country than there are today. Even two years ago, when the National Draft-Goldwater Committee was publicly proclaimed, conservatives were comparatively unaware of each other's existence, and hence of their united strength. Today, despite the disappointment naturally engendered by Senator

Page Thirty-nine

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Goldwater's defeat, conservatives are vastly better organized and infinitely more experienced in the ways of practical politics than they have ever been before.

A final observation. After the defeat of Richard Nixon in 1960, it was universally assumed that the inevitable course of the Republican Party was leftward—to Rockefeller, and perhaps even beyond him; but what is the comparable expectation today, nine or ten months after the "debacle" of the Goldwater drive? It is, of course, widely asserted in Republican Party circles that a "conservative can't win"; but is one not struck by the paucity of voices arguing that its destiny lies with Rockefeller (or Kuchel, or Lindsay, or some other authentic modern-liberal) in 1968? The general assumption seems to be that we are in for Mr. Nixon or somebody more or less like him—perhaps Romney; and I have no hesitation in saying that this passion for the middle of the road is generated, and indeed dictated, by the show of force put on by the conservative Republicans under Senator Goldwater last year. No Republican convention in the near future will be able to ignore their wishes altogether — thanks to Senator Goldwater's effort in 1964.

For all of the above reservations, I repeat that I agree with much of Professor Rogge's central thesis. The real battle is, and will always be, the battle of ideas. Conservatives must labor to build that better mousetrap; only then will the world beat a path to our door.

—WILLIAM A. RUSHER [1]

[1] William A. Rusher is publisher of *National Review* and one of the organizers of the Draft Goldwater committee in 1964.

Reply to Mr. Rusher:

IT MAY BE symptomatic of the general concern of conservatives with consistent principles that Mr. Rusher and I continue to dispute various points on the periphery of a central core of agreement. Were we modern-liberals, we could bed down together in the spacious accommodations of complete pragmatism, perhaps even co-authoring a book on the danger to society of "true believers."

I agree with Mr. Rusher that the key to my thesis is the almost-fact that Senator Goldwater was doomed to lose, right from the start. He was running as a candidate of one of the two major political parties in the country, and the function of a political party at election time is to win the election—not to educate the electorate. A party can win only by offering a candidate and by taking a position near the center of the normal distribution curve of public philosophy; only by offering what, if not an echo, is at least only a semi-choice. If this be true, then the only way a real change can be made in the policies of the country is by moving this "locus of possible choice" to the left or to the right. What the modern-liberals have succeeded in doing is to move this locus significantly to the left. What we must do is move it back to the right.

Is there no role for political action then? Yes, but it is not the central role, which belongs to education in its broadest sense. Political action in local areas (including whole states) where the locus of possible choice is already to the right can be successful—witness the number of conservative voices in the houses of Congress in recent decades. In fact, one of the tragedies of the Goldwater candidacy was that his crushing defeat carried many of these men into at least tem-

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porary oblivion as well. As Congressmen or Senators they *were* in a position to educate the electorate; now the task is more difficult.

If a political party happens by chance to select a candidate not from the center, it will be forced to remake his image so that he appears to be so—and with this remaking goes most of the chance for the candidacy of a Goldwater to be educational. While the last campaign may have trained some conservatives in political action, it did *not* educate the public to conservatism, nor even sharpen the issues between conservatism and modern, social democratic liberalism. In fact, these issues were hardly debated. For Goldwater to have really taken his stand on these issues would have been immediate political suicide. Thus he was forced to make concessions that will not help conservatives in their long-run battle for men's minds. For example, when I now criticize social security, I am told that "even Barry Goldwater wasn't *that* reactionary."

I come out right where I did before: The candidacy of Barry Goldwater was not helpful to the chances in the long-run of moving America in the direction of individualism and limited government.

—BENJAMIN A. ROGGE [2]

[2] Benjamin A. Rogge is an advisor to *New Individualist Review*.

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The View from London Bridge

STEPHEN J. TONSOR

The Catholic Church and Nazi Germany by Guenter Lewy. New York, McGraw-Hill, 1964. 464 p. $7.50.

IN OCTOBER 1840, Thomas Babington Macaulay, Whig-Protestant and the most widely-read and influential English historian of the nineteenth century, reviewed Leopold von Ranke's *The Ecclesiastical and Political History of the Popes of Rome, during the Sixteenth and Seventeenth Centuries.* In Macaulay's time Roman Catholicism, after two centuries of decline which culminated in exile and imprisonment for Pius VII by Napoleon, was demonstrating a vitality and dynamism which enabled it to threaten both Protestantism and liberalism. Macaulay and Ranke explored and expanded upon the sins of Rome, but both recognized and were puzzled by her permanence. In a famous passage from Macaulay's review of 1840 he observed:

> Nor do we see any sign that the term of her long dominion is approaching. She saw the commencement of all the governments and all the ecclesiastical establishments that now exist in the world; and we feel no assurance that she is not destined to see the end of them all. She was great and respected before the Saxon had set foot on Britain, before the Frank had passed the Rhine, when Grecian eloquence still flourished at Antioch, when idols were still worshipped in the temple of Mecca. And she may still exist in undiminished vigour when some traveller from New Zealand shall, in the midst of a vast solitude, take his stand on a broken arch of London Bridge to sketch the ruins of St. Paul's.[1]

Now, a century later, Guenter Lewy in his recent book has rediscovered the Scarlet Lady and, while most of the secular and religious press of the United States is filled with the spirit of ecumenism and the excitement of Vatican II, has indicted her once more on the grounds of immorality and institutional opportunism. His study is fascinating and complex both because of the problems which it raises and the motives which lie behind its charges. Its tone of ill-concealed hostility and its unnerving assumption of moral superiority are matched only by the thoroughness of its documentation and the clarity of its analysis. Mr. Lewy clearly possesses what Justice Holmes described as an "instinct for the jugular."

Stephen J. Tonsor is professor of history at the University of Michigan. He is a specialist in the history of ideas, and a contributor to professional journals.

[1] T. B. Macaulay, "Von Ranke," in *Works* (London: Longmans, Green, 1897), VI, p. 455.

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There is a certain naive charm in those historians who discover, with an intensity of moral indignation which nearly lifts them above the moral insensitivity and the common fallibility of mankind, that Popes sin, that prelates mistake institutional advantage for the will of God, that even good men, indeed saints, are not much better than the average run of their fellow men. They somehow forget that moral grandeur is not the hallmark of fallen man; that Moses doubted, that David murdered and fornicated, that Solomon as all his people before and after him, turned away from Jehovah to whore after false Gods and to live in injustice and iniquity; that Peter, reckoned by Catholics as the first pope, denied Jesus three times when Jesus' hour of passion had come; that Judas among the chosen twelve betrayed; that mistaken Paul assisted at the martyrdom of Stephen. Those who stand at some distance from Holy Scripture and the common experience of mankind are always surprised at the history of Christianity; forgetting somehow that we are formed of the dust of the earth. Perhaps the error lies in a generous overestimation of the moral resources of human nature rather than a deeper commitment to morality. This emphasis upon perfectability and innate goodness is a common characteristic of recent Protestantism, of Whig politics, and of liberal humanism. The view, however, from London Bridge leaves few illusions and holds few surprises. The Old and New Testaments should be required reading for graduate students in history, not because they are good history, nor because they expound the basic religious attitudes and values out of which our society has developed, but because they give us such a long, uninterrupted, and candid view of the nature and possibilities of this creature, man.

AT THE WAR'S END IN 1945 a myth seemed in the process of crystalizing. As with other myths the myth of the opposition of the Catholic Church to National Socialism had its roots in reality. From the outset there had been tension and open hostility between Catholicism and National Socialism; but the myth and the world ignored those wide areas of agreement and open cooperation between National Socialism and German Catholicism, and chose to overlook the curious ambivalence and friendly neutrality so often exhibited between the Holy See and the Nazi State. Only history was capable of pointing the finger of guilt and disestablishing a myth which comforted both the Roman Church and the new Germany.

The truth, when it is finally established, will be far more interesting than the myth and far more consistent with past history and with our experience of human behavior. Yet the truth is not easily come by and there is reason to suspect that the truth in all its ramifications is still and will long be incompletely known. There is a great deal more evidence in the Vatican archives which the Church owes the world. Its effects upon world opinion cannot be more damaging than the silence which has cloaked this important aspect of contemporary history; but when the evidence is all in, there is reason to suspect that an important aspect of the truth will be a sympathetic analysis and understanding of motive. It is precisely this understanding of motive which is absent in both Rolf Hochhuth's play, *The Deputy*, and Guenter Lewy's *The Catholic Church and Nazi Germany*. Lewy gives us, in his study, with great care, detail, and accuracy, the facts. But in history, aside from the know-nothing histories of the positivists, the facts are always less than the truth.

As we also might suspect, the facts are far more damning than the truth. There is the fact that German Catholicism was hostile to the Weimar Republic; that it marshalled its great power against the ideological and social pluralism, the liberalism, the democracy, the secular tone of Weimar Germany. The Church's vision was dominated by the ideal of an authoritarian state whose object was the promotion of virtue and true religion. The libertarian secularism of the Weimar Republic could only be considered by the Church as social disease, the work of Jews, liberals, Freemasons, and Bolsheviks.

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There was, moreover, the fact to reckon with that German Catholics were enthusiastic nationalists who, since the days of the *Kulturkampf,* had been stung by the charge that Catholicism was incompatible with German patriotism. In an effort to prove themselves both good Catholics and good Germans they displayed an understandable but excessive devotion to "national rebirth," militarization, and the revision of the Versailles treaty. Since this "national rebirth" was obviously being achieved under the leadership of the National Socialists, Catholics in large numbers joined the party and enthusiastically supported the Nazi program. As Guenter Lewy points out, such actions were not limited to the secularized laity. Numerous priests and bishops supported National Socialism out of patriotic motivation.

THE CONCLUSION IS plain. Traditional German and Catholic anti-semitism played an important role in strengthening the accommodation between National Socialism and Catholicism. It is too easy to see anti-semitism as George Mosse does in his recent study, *The Crisis of German Ideology,*[2] as the product of volkish ideas and a social response to the crisis of the emergence of German society into modernity. Anti-semitism is much more complicated than the partial explanation which Mosse proposes. It is clear that its roots were to a substantial degree cultural and religious and reach back into German and Christian history to a point well before the beginning of the nineteenth century. It was easy for German Catholics, consequently, to be at best insensitive to the fate of the Jews under National Socialism, though most of them did not support the morally monstrous "final solution."

There was, too, the very human effort on the part of the Church to derive some advantage from an accommodation with the dynamic National Socialist movement. When Rome was captured by the Allies in World War II, a cynic remarked of the behavior of the Roman citizenry in welcoming the Allied armies, "Everybody loves a winner, but the Romans love them just a little more." There is a strong (if we are to judge from the historical record) parallel between Rome's citizens and the clergy of the Roman Church. It is all too easy to see the hand of Providence supporting the successful conqueror and the triumphant tyrant. A belief in Providential history leads almost inevitably to the assumption that "whatever is, is right."

Additionally there is a confidence in the Church, born of the divine promise and two thousand years of experience, that the Church can outlive its enemies, profit from their concessions, and eventually assist in their undoing. But in accommodating to National Socialism through the Concordat of July 1933, the Church put its stamp of approval upon a criminal regime and opened the way for a recognition of that regime within Germany and abroad. The cooperation of the Church went well beyond the Concordat. The Church played an important role in the Saar referendum, in the remilitarization of the Rhineland, in the Austrian Anschluss, in the German war effort, 1939-1945, and in the "crusade against Soviet Bolshevism." The Catholic press in Germany was frequently little more than an extension of Goebbels' propaganda ministry and German bishops and priests often spoke the party Chinese of the Nazis.

Ultimately the worst sins of the German Catholic Church and of the Papacy were those of omission; the failure to speak out against racism, persecution, the violation of the peace, murder on a scale hitherto unknown in human history, in morally unambigious terms. To be sure, there were infrequent statements from the German bishops and the Papacy, but they were couched in the muted and esoteric language of encyclical-Latin. If Jesus Christ had spoken this language he might have been appointed to the Sanhedrin.

THESE ARE THE "FACTS." There are explanations possible which are more sympathetic than those adduced by Guenter Lewy. George O. Kent's article, "Pope

[2] (New York: Grosset and Dunlap, 1964).

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Pius XII and Germany: Some Aspects of German-Vatican Relations, 1933-1943,"[3] is, at certain points, both more exact and more charitable than Lewy's account. Klaus Epstein's discussion of the problem, entitled "The Pope, the Church and the Nazis,"[4] is the sanest, deftest, and most knowledgable review of the whole matter. Still, if the worst possible construction is put on the "facts," Pius XII and his fellow bishops emerge as figures of singular moral grandeur when compared with their fellow bishops of earlier date. Given the moral condition of the world in the thirties and forties, that any objective moral standards were maintained (as indeed they were) was a signal victory. That these standards were not forcefully voiced or adequately implemented is only another in the long series of moral failures which serve to remind Catholics of the human dimension of their Church. Nor is this simply an easy way of shunting moral responsibility. "Woe to the world because of scandals! For it must needs be that scandals come, but woe to the man through whom scandal does come." (Matt. 18: 7)

If a more charitable construction is placed on the events of 1933-1945, it is frequently understandable that the protests were necessarily weak and ineffectual. Pius XII was frequently forced to weigh saving Catholic souls as against saving Catholic and Jewish lives. His choice was wholly in accord with that which he thought the more important obligation. One is tempted to reply to Lewy's condemnation of the German Church for having failed to foster an active resistance to Hitlerism by asking where, during the period of 1933-1945, the Jewish resistance was? Is it not possible that those who suffer indignity and persecution without resisting also do God's work? One may question the reasonableness of such inaction; it is difficult to question the motive.

WHATEVER MAY BE the "ultimate truth," Catholicism need not fear a temporarily "bad press." Religion is rooted in responses which are not, fortunately, contingent upon the moral probity of its communicants or its leaders. The more interesting and fundamental questions, however, concern the attitude of the Catholic Church which made the initial enthusiasm of German Catholics for National Socialism possible and, secondly, the danger which this set of ideas still poses for the Catholic Church. In terms of these ultimate questions Guenter Lewy's final chapter "Catholic Political Ideology: The Unity of Theory and Practice" is perhaps the most interesting and important part of his book.

Since St. Paul, the political theory of Catholicism has been unsatisfactory. It has been unsatisfactory largely because the Church at first saw itself and mankind as pilgrims and strangers on earth. The time between Christ's ascension and his second coming was thought to be short, and life in the interim was provisional. Political institutions were not important to the Christian who had his treasure elsewhere. As eschatological expectation waned and the institutional Church solidified its forms and achieved victory in the struggle with paganism, some accommodation between the supernatural order which the Church represented and the secular state was necessary. Eusebius viewed the Empire of Constantine the Great as the embodiment of God's kingdom on earth, and Constantine was elevated, at his death, to sainthood. (Catholic churchmen have been making the same error as Eusebius from that day to this.) As the centuries passed Church and State were ever more completely identified. In the Christian East the identification was complete and the State emerged as the dominant partner in this strange and uncertain relationship. In the Christian West the Church with difficulty maintained its independence from the State, and the struggle of the medieval papacy to establish a theocracy left a permanent impress upon Catholic political theory.

In its growing recognition of permanence and its accommodation to temporal society, the Church identified itself ever more closely with the authoritarian culture of the medieval era. It grew pro-

[3] *American Historical Review*, LXX (Oct. 1964), 59-78.

[4] *Modern Age*, IX (Winter 1964-65), 83-94.

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gressively more difficult to distinguish the boundaries of the realms of nature and of grace as the so-called "medieval synthesis" developed. So close, indeed, was this identification between the Church and its cultural context that when, as was inevitably the case, medieval society began its long process of transition and dissolution, the Church failed to adjust its institutional structure or its political theory to the new culture which was emerging. It continued down to the last decade to maintain the necessity for a close and intimate association between Church and State and an authoritarian social order. Its views were, and in many instances remain, anti-democratic, anti-pluralistic, anti-liberal, anti-capitalistic. It is for this reason that the Church opposed liberal democratic political and social forces in the reactionary first half of the nineteenth century, when the restoration Church dreamed of a medieval revival and an alliance between throne and altar.

It is for this reason that neo-romantic Papal social theory at the turn of the century created the grotesque intellectual charade of "corporatism," grounded, as it was, upon an imperfect understanding of medieval society. It is true, as Lewy points out, that Pope Leo XIII revolutionized Catholic political theory by divorcing it from emphatically teaching the necessity of monarchy as a state form for the welfare of the Church. Yet while other state forms were recognized as *licit*, the presumption of correctness was clearly in favor of authoritarianism. This is the basic reason that the Church welcomed the dissolution of liberal democratic governments in Italy, Germany, and Spain in the 1920's and 1930's. Nor need we point to Europe in quest of evidence. One need only recall the rasping voice of Father Charles Coughlin, leaf through an old file of *Social Justice*, or study the inconography of the Shrine of the Little Flower in Royal Oak to understand the full implications of the so-called "social teachings" of the Church in the 1930's. In this atmosphere the fact that Father Coughlin circulated the anti-semitic *Protocols of the Elders of Zion* was no accident. It should be remembered that the Church resisted the anti-Christian aspects of National Socialism. Its guilt lay in the fact that it espoused a political phantasm which bore no relationship to the economic, cultural, or religious reality of modernity. Finally, there is no assurance at the present time that Catholic political theory has broken with the traditions of a thousand years.

Implicit in the difficulty is the fact that Catholic theologians have confused the temporal with the divine order, have confused man's culture, which is man's creation, with God's revelation. When man's culture, which always is imperfect, erring, and inextricably bound up with man's creaturely imperfection and sinfulness, is elevated to a position of absolute validity (as it is in so much of contemporary Catholic social thought), the Church invites disaster. The institutions of man are neither eternally valid nor unambigiously moral. Even the most perfect of institutions, the Church, bears eloquent testimony to the imperfections inherent in man's condition. It is for this reason that the Church dare not attach itself to a particular social or political order. The attachment to the older authoritarian order of Western society was the source of the failure of the Church to meet squarely the challenge of totalitarianism.

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REVIEW:

Passion and Social Constraint by Ernest van den Haag. New York, Stein and Day, 1963. 368 p. $6.95.

AMONG CONTEMPORARY American sociologists, Ernest van den Haag is perhaps the most creative and the most independent; the unique character of his work is doubtless owing, at least in part, to a most catholic upbringing. Born in Holland of Dutch parents, van den Haag was reared in Germany and later studied in France, Italy, and America. He remained for ten years in Italy, spending part of this time at the University of Bologna. After later receiving a doctorate in economics from New York University, he embarked on a career in psychoanalysis, and although he is a practicing analyst, van den Haag is best known today for his contributions to sociology.

This broad and varied background is reflected in a distinctive contribution to American social science. Whereas the overwhelming majority of his colleagues are modern-liberal in viewpoint, van den Haag is an avowed conservative. Whereas modern psychoanalytic theory has gradually blended orthodox Freudianism into the ego-oriented psychology of the neo-Freudians and their related cohorts, van den Haag holds firmly to Freud. In an age when form and order are held by many to be no longer applicable to art, literature, or even to society, when a slovenly relativism is the favored approach to life and art, van den Haag advocates an old-fashioned reliance on moral and aesthetic "truths." He calls a spade a spade, and vulgarity, vulgarity. Popular Western culture is vulgar, he says, and for him that vulgarity is not redeemed by the material it offers for his acerb humor.

Both van den Haag's background and his philosophical position are reflected in *Passion and Social Constraint*. Opinion and fact are carefully delineated and distinguished, however; a precision not often shown by van den Haag's modern-liberal colleagues.

The opening section of the book deals with personality, which is handled from an orthodox Freudian point of view. Van den Haag presents the Freudian developmental position clearly, carefully limiting the number of "technical" terms he uses, concisely defining those he does employ, and thus managing to be easy to read without diluting what he has to talk about. In presenting evidence for and against his interpretations, he does not engage in the currently all-too-common serpentine manipulations of logic whereby a particularly embarrassing set of facts is somehow made to lead to a conclusion directly opposed to that obviously called for. In those very few instances when the facts do not seem to justify van den Haag's interpretation, he quite candidly resorts to a salvation-is-by-faith-and-faith-alone appeal, and invokes Freud to settle the dispute—this touch of dogmatism at least provides a consistent framework for the analysis and interpretation of the existing evidence.

The most controversial aspects of the book derive from van den Haag's insistence on the inherent "limitations of man's nature and on the tragic nature of human destiny." The essence of this strictly Freudian position is that biology sets limits on man's development; culture determines only to what extent his biological potential may be fulfilled. Social change cannot eradicate basic differences between men. Hence social change will never accomplish all that its egalitarian advocates hope for.

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THE SECOND SECTION of the book, that dealing with society, blends the predominantly psychoanalytic approach of the personality section with van den Haag's conservative approach to sociology. He treats such standard sociological topics as group membership, tensions and rivalry, power and authority, cultural constraints, class and caste, but in a refreshingly original manner. Of particular interest here is the material dealing with prejudice and the Supreme Court's desegregation decisions. Van den Haag argues that it is impossible to prove "that prejudice is clinically injurious." If prejudice cannot be shown to be clinically injurious, then no damage has been wrought of which a court may properly take judicial notice. Van den Haag discusses the famous study of Dr. Kenneth Clark, which was cited as evidence before the Court and which declared that Negro children in a segregated school suffered psychological injury. Van den Haag points out that the same tests administered to Northern Negro children in integrated schools showed even greater manifestation of the behavior interpreted by Clark as the outcome of injurious, that is, prejudiced treatment. On the basis of Clark's logic these findings should lead to the conclusion that desegregation is psychologically more injurious; and therefore that segregation should prevail as a means of protecting Negro children from psychological harm.

Van den Haag's distaste for what he considers a distorted egalitarianism becomes most apparent in Part III of this book. Interestingly, he, like his modern-liberal counterparts, is vitriolic in denouncing the popular culture of today, but where they blame this deterioration on the corrupting influence of advertising and other mass media, he feels that advertising does not *create* taste, but merely *reflects* the abysmally low level of public taste. Advertising has pandered to the populace, but advertising has not created its vulgarity. The responsibility for that lies with the same leveling influences which have lowered the purchasing power of those cultivated persons who have "individual taste" while raising the purchasing power of the masses so fast that they have not been able to acquire, via education and acculturation, a respectable level of personal taste. The free market has operated to translate tastes into economic demand under these circumstances, and that demand has evoked the corresponding supply.

Whatever one's opinions on the individual and social issues discussed in this highly readable book, one cannot fail to be impressed by the clarity of van den Haag's exposition. Contemporary sociological jargon is little in evidence here. Van den Haag also manages to make seemingly dull topics fascinating by introducing historical examples (Frederick II's experiment to determine the natural speech of children—their nurses were instructed not to talk to them; but instead of speaking any language, all the children died). This interesting synthesis of psychoanalysis and sociology presents a truly novel discussion of contemporary mass society in a book which the educated layman can enjoy, and which the social scientist should respect.

—RICHARD McCONCHIE[1]

[1] Richard McConchie is currently pursuing graduate studies in psychology at Columbia University.

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NEW BOOKS AND ARTICLES

THE FOLLOWING IS A SELECT LIST OF BOOKS AND ARTICLES WHICH, IN THE OPINION OF THE EDITORS, MAY BE OF INTEREST TO OUR READERS.

Milton Friedman and Anna J. Schwartz, *The Great Contraction.* Princeton, N. J., Princeton University Press, 1965. $1.95. A paperback reprint of those chapters in their monumental *Monetary History of the United States, 1867-1960* (Princeton: Princeton Univ. Press, 1963) pertaining directly to the years of the Great Depression. Prof. Friedman remarks in the preface that the idea of a smaller reprint was given him by a student, with the idea in mind of bringing the work within reach of undergraduates and others unable to avail themselves of the complete work.

Vera Lutz, *French Planning.* Washington, D. C., American Enterprise Institute, 1965. An analysis and criticism of the "soft" economic planning pursued by France in recent years. This, and other worthwhile and scholarly publications, are available from the American Enterprise Institute at little cost. Address: 1200 Seventeenth Street N.W., Washington, D.C. 20036.

James J. Martin, *American Liberalism and World Politics, 1931-1941.* New York, Devin-Adair, 1963. 2 vols. $22.50. An extremely detailed exposition, largely from the pages of the *Nation* and *The New Republic,* of the shift in American left-wing circles from a position generally pacifistic and critical of the Versailles settlement, to one demanding a crusade against the Axis Powers. *The New Republic* and *Nation's* profuse apologiae for Stalin's forceful measures of internal policing in Russia during this period provide some amusement.

Richard Perlman, *Wage Determination: Market or Power Forces.* Boston, D.C. Heath and Co., 1965. $1.50. A timely paperback collection directed to the controversy of "countervailing power" or supply and demand in the labor market. Contributor Fritz Machlup proposes that the entrepreneur does equate marginal productivity with marginal costs in hiring simply through his feel of the situation.

Prof. P. T. Bauer of the London School of Economics, a specialist in the field of underdeveloped countries, criticizes in the June 29, 1965, issue of *National Review* ("Capitalism and African Economic Development") the ideas on this subject of the in-vogue Swedish economist, Gunner Myrdal. Myrdal, Bauer finds, like so many other writers in this field, "takes the case for comprehensive [government] planning for granted without argument." Yet, "it is by no means obvious why an economy should progress more rapidly, if what is produced is determined largely by the government, rather than by individual consumers and producers." Prof. Bauer is, along with B. S. Yamey, author of *The Economics of Underdeveloped Countries,* an excellent introduction to the field.

Robert L. Cunningham, Professor of Philosophy at the University of San Francisco and well known to *NIR* readers, dissects the basic claims of the Triple Revolution group on automation in the current (Summer 1965) issue of *Modern Age.* Far from ranking with the works of Copernicus and Galileo, the ideas of this highly-publicized organization, Cunningham demonstrates, consist largely of a few shopworn economic fallacies, with an admixture of odd linguistic usage.

Edwin L. Dale, Jr., "The Big Gun on Poverty," *The New Republic,* August 7, 1965. A writer on economic affairs for *The New York Times* points out the far greater efficacy in combatting poverty of greater economic growth over particular governmental programs. "Jobs have increased rapidly in the very

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places where the great bogey, automation, was supposed to cause trouble. . . . By the test of income, 450,000 families moved out of the poverty class last year, almost none of them touched by the poverty program. . . . The main conclusion is that an increase of one percentage point in the national rate of economic growth solves far more problems of human misery, insofar as they stem from unemployment or low income, than all the retraining programs, union resistance to automation, poverty programs, distressed-areas programs and the rest put together."

Theodore Draper, "The Roots of the Dominican Crisis," *The New Leader,* May 24, 1965. An interesting, objective analysis of the situation in the Dominican Republic following the ouster of Trujillo. Draper criticizes especially the incredibly incompetent handling of Latin American relations by the United States in general, and the Johnson Administration in particular. "In effect, the decision against Bosch was a decision against democracy and decency as the bulwarks against Communism."

Harry Kalvin, Jr., *"The New York Times* Case," *1964 Supreme Court Review.* Chicago, University of Chicago Press, 1964. Prof. Kalvin of the University of Chicago Law School discusses the content and the larger significance of the Supreme Court's actions in striking down the libel ruling of a lower court: "In brief compass, my thesis is that the Court, compelled by the political realities of the case to decide it in favor of the *Times,* yet equally compelled to seek high ground in justifying its result, wrote an opinion which may prove to be the best and most important it has ever produced in the realm of freedom of speech. . . . analysis of free speech issues should hereafter begin with the significant issue of seditious libel and defamation of government by its critics rather than with the sterile example of a man falsely yelling fire in a crowded theater." The implications of the *Times* case extend far beyond the usual notions of "democratic open discussion": "If [a society] makes seditious libel an offense, it is not a free society no matter what its other characteristics."

Spencer MacCallum, "Social Nature of Ownership," *Modern Age,* Winter 1964-65. Mr. MacCallum discusses the sociological role of property in human society and traces its functions logically prior to the State from the point of view of anthropology, and presents it as a workable alternative to state action. His discussion represents a serious and valuable contribution to classical liberal thinking in areas where the point is usually granted to the authoritarian position *a priori.*

An interesting article appeared in the July 24, 1965, issue of *The New Republic*: "Concern About LBJ," by John Osborne. Among the sources of concern cited is the curious tone struck by Presidential Aide Jack Valenti, who recently stated, in a speech in Boston: "The Presidency is a mystical body, constructed by the Constitution, but whose architecture was conceived in the inner crannies of a people's soul." Valenti also referred, according to Osborne, to President Johnson as "a father to lead us," and claimed that the President was fortified by a "Godly osmosis" [*sic*].

An excellent new journal is called to the attention of the libertarian reader: *Left and Right,* among whose editors appear Dr. Murray N. Rothbard and Leonard Liggio, both *NIR* contributors. *Left and Right* emphasizes an anti-Cold War position, from a libertarian point of view. Subscriptions to this journal, published three times yearly, are available from: *Left and Right,* Box 395, Cathedral Station, New York, N.Y. 10025, for $2.50 per year. Another interesting publication recently brought to our attention is *Innovator,* a monthly in the newsletter format, featuring "applications, experiments and advanced developments of liberty." Subscriptions are $2.00 per year. Write: *Innovator,* P.O. Box 34718, Los Angeles, Calif.

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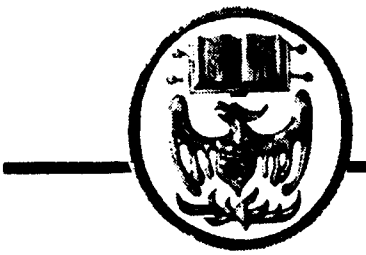

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